



***New Jersey Office of the Attorney General***  
Division of Consumer Affairs  
State Board of Marriage and Family Therapy Examiners  
Alcohol and Drug Counselor Committee  
Statutes and Regulations

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**NEW JERSEY ADMINISTRATIVE CODE**

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## **Alcohol and Drug Counselor Committee**

### **45:1–1. Persons entitled to practice, etc. under former laws unaffected**

Any person now entitled to practice any profession or to engage in any occupation, governed or regulated by the provisions of this title by virtue of any prior law, shall continue to be entitled to practice or engage in the same, notwithstanding the enactment of this title, and the validity of any license or other authorization to practice any such profession or to engage in any such occupation, heretofore issued to any person under any prior law, or of any proceeding pending to obtain such a license or authorization shall not be affected by the enactment of this title but all such persons shall in all other respects be subject to the provisions of this title.

### **45:1–2. Repealed by L.1971, c. 60, § 5, eff. March 25, 1971**

#### **45:1–2.1. Professional boards and commissions; application of act**

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Public Movers and Warehousemen and the State Board of Physical Therapy Examiners.

#### **45:1–2.2. Appointment of members by governor; public members; member from department in executive branch; quorum; vote necessary for action**

- a. All members of the several professional boards and commissions shall be appointed by the Governor in the manner prescribed by law; except in appointing members other than those appointed pursuant to subsection b. or subsection c., the Governor shall give due consideration to, but shall not be bound by, recommendations submitted by the appropriate professional organizations of this State.
- b. In addition to the membership otherwise prescribed by law, the Governor shall appoint in the same manner as presently prescribed by law for the appointment of members, two additional members to represent the interests of the public, to be known as public members, to each of the following boards and commissions: The New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of

Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the New Jersey Real Estate Commission, the State Board of Shorthand Reporting, the State Board of Social Work Examiners, and the State Board of Veterinary Medical Examiners, and one additional public member to each of the following boards: the Board of Examiners of Electrical Contractors, the State Board of Marriage and Family Therapy Examiners, the State Board of Examiners of Master Plumbers, and the State Real Estate Appraiser Board. Each public member shall be appointed for the term prescribed for the other members of the board or commission and until the appointment of his successor. Vacancies shall be filled for the unexpired term only. The Governor may remove any such public member after hearing, for misconduct, incompetency, neglect of duty or for any other sufficient cause. No public member appointed pursuant to this section shall have any association or relationship with the profession or a member thereof regulated by the board of which he is a member, where such association or relationship would prevent such public member from representing the interest of the public. Such a relationship includes a relationship with members of one's immediate family; and such association includes membership in the profession regulated by the board. To receive services rendered in a customary client relationship will not preclude a prospective public member from appointment. This paragraph shall not apply to individuals who are public members of boards on the effective date of this act. It shall be the responsibility of the Attorney General to insure that no person with the aforementioned association or relationship or any other questionable or potential conflict of interest shall be appointed to serve as a public member of any board regulated by this section. Where a board is required to examine the academic and professional credentials of an applicant for licensure or to test such applicant orally, no public member appointed pursuant to this section shall participate in such examination process; provided, however, that public members shall be given notice of and may be present at all such examination processes and deliberations concerning the results thereof, and, provided further, that public members may participate in the development and establishment of the procedures and criteria for such examination processes.

- c. The Governor shall designate a department in the Executive Branch of the State Government which is closely related to the profession or occupation regulated by each of the boards or commissions designated in section 1 of P.L.1971, c. 60 (C. 45:1-2.1) and shall appoint the head of such department, or the holder of a designated office or position in such department, to serve without compensation at the pleasure of the Governor as a member of such board or commission.
- d. A majority of the voting members of such boards or commissions shall constitute a quorum thereof and no action of any such board or commission shall be taken except upon the affirmative vote of a majority of the members of the entire board or commission.

#### **45:1-2.3. Qualifications; rights and duties**

Such additional members:

- a. Need not meet the educational and professional requirements for membership on such boards or commissions as provided in the several statutes establishing such boards and commissions; and
- b. Shall be voting members subject to the same rights, obligations and duties as other members of their respective boards or commissions.

#### **45:1–2.4. Effect of act on term of member in office**

Nothing in this act shall affect the right of a board or commission member in office on the effective date of this act to continue to serve for the term for which he was appointed.

#### **45:1–2.5. Compensation and reimbursement of expenses of members; executive secretaries; compensation and terms of employment; offices and meeting places**

With respect to the boards or commissions designated in section 1 of P.L.1971, c. 60 (C.45:1–2.1), except as otherwise provided in subsection d. of this section, and notwithstanding the provisions of any other law:

- a. The officers and members shall be compensated on a per diem basis in the amount of \$25.00 or an amount to be determined by the Attorney General, with the approval of the State Treasurer, but not to exceed \$100.00 per diem or \$2,500.00 annually, and shall be reimbursed for actual expenses reasonably incurred in the performance of their official duties.

Such moneys shall be paid according to rules and regulations promulgated by the Attorney General.

- b. The executive secretary shall receive such salary as shall be determined by the appointing authority within the limits of available appropriations and shall serve at its pleasure. Any such executive secretary who holds a certificate, license or registration issued by the board or commission by which he is employed shall not during such employment be permitted to engage in any profession or occupation regulated by the board or commission.
- c. The head of the department to which such board or commission is assigned shall maintain within any public building, whether owned or leased by the State, suitable quarters for the board's or commission's office and meeting place, provided that no such office or meeting place shall be within premises owned or occupied by an officer or member of such board or commission.
- d. The compensation schedule for members of boards and commissions provided in subsection a. of this section shall not apply to the members of the New Jersey Real Estate Commission, who shall be compensated pursuant to R.S.45:15–6 or to members of the State Board of Medical Examiners who shall receive compensation of \$150 per diem.

#### **45:1–2.6. Inapplicability of act to rights under civil service or any pension law or retirement system**

Nothing in this act shall deprive any person of any tenure rights or of any right or protection provided him by Title 11 of the Revised Statutes, Civil Service,<sup>1</sup> or any pension law or retirement system.

<sup>1</sup>Now title 11A.

#### **45:1–3. Expenses of boards paid from income; surplus paid to state treasurer; accounts**

Each member of the boards mentioned in section 45:1–2<sup>1</sup> of this title shall be entitled to his actual traveling and other expenses incurred in the performance of his duties, which sum shall be paid from the license fees and other sources of income of such boards. Such boards shall also be entitled to expend from their income such sums as shall be necessary to defray all proper expenses incurred by them in the performance of their duties, including the compensation of any of their officers or agents

whom they are authorized to compensate. Such boards, if authorized to collect an annual registration or license fee from persons licensed by them, may retain in their treasuries the fees so collected and use the same for the purpose of defraying the expenses of securing evidence against and prosecuting persons violating the provisions of the laws with the enforcement of which they are charged, or, in case the revenue of the boards from other sources shall be insufficient to pay the salary of their secretaries and their other expenses, such fees may be expended for such purposes. Such boards shall be entitled to retain, in addition to the above, at least one hundred dollars in their treasuries for the purpose of preparing and holding their examinations. On or before October thirty-first in each year such boards shall pay to the state treasurer all moneys remaining in their treasuries, except as above stated, which sum, when so paid, shall form a part of the state fund. Such boards shall keep accurate accounts of their receipts and expenditures, which accounts shall be subject to audit by the state comptroller.

<sup>1</sup>Repealed; see, now, §§ 45:1–2.1, 45:1–2.2.

#### **45:1–3.1. Application of act**

The provisions of this act shall apply to the following boards and commissions: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Radiologic Technology Board of Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the New Jersey Cemetery Board, the State Board of Social Work Examiners and the State Board of Physical Therapy Examiners.

#### **45:1–3.2. Charges for examinations, licensures and other services; establishment or change by rule; standards**

Notwithstanding the provisions of Title 45 of the Revised Statutes or any other law to the contrary, any board or commission named in section 1 of this supplementary act 1 may by rule establish, prescribe or change the charges for examinations, licensures and other services it performs, which rule shall first be approved by the head of the department to which such board or commission is assigned and shall be adopted in accordance with the provisions of the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1). Any board’s or commission’s charges established, prescribed or changed pursuant to this section shall be established, prescribed or changed to such extent as shall be necessary to defray all proper expenses incurred by the board or commission in the performance of its duties but such charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

<sup>1</sup>N.J.S.A. § 45:1–3.1.

#### **45:1–3.3. Administrative fees charged by boards; modification**

The Director of the Division of Consumer Affairs may by rule establish, prescribe, or modify administrative fees charged by boards in accordance with the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.). For purposes of this section, “administrative fees” are charges assessed to

licensees, registrants or holders of certificates, as the case may be, for board functions that are not unique to a particular board but are uniform throughout all boards. Administrative fees include, but are not limited to, fees for a duplicate or replacement license, certification or registration, late renewal fee, license reinstatement fee, and the fee for processing change of address.

#### **45:1–4. Salary of secretary**

The secretary of each of the boards mentioned in section 45:1–2<sup>1</sup> of this title, whether or not a member thereof, shall be entitled to receive such reasonable salary or compensation for his services as secretary as shall be fixed by such boards, which shall be paid by the boards from their receipts, unless an appropriation is made for the expenses of such boards, in which case the same shall be paid from such appropriation.

<sup>1</sup>Repealed. See, now, §§ 45:1–2.1, 45:1–2.2.

#### **45:1–5, 45:1–6. Repealed by L.1979, c. 432, § 4, eff. Feb. 14, 1980 45:1–7. Professional or occupational licenses or certificates of registration; duration; expiration; exceptions; fees**

Notwithstanding any of the provisions of Title 45 of the Revised Statutes or of any other law to the contrary, all professional or occupational licenses or certificates of registration, except such licenses or certificates issued to real estate brokers or salesmen pursuant to chapter 15 of Title 45, which prior to the effective date of this act were issued for periods not exceeding one year and were annually renewable, shall, on and after the effective date of this act, be issued for periods of two years and be biennially renewable, except that licenses and business permits issued to electrical contractors and certificates of registration issued to qualified journeymen electricians pursuant to chapter 5A of Title 45 shall be issued for periods of three years and be triennially renewable; provided, however, the boards or commissions in charge of the issuance or renewal of such licenses or certificates may, in order to stagger the expiration dates thereof, provide that those first issued or renewed after the effective date of this act, shall expire and become void on a date fixed by the respective boards or commissions, not sooner than six months nor later than 29 months, after the date of issue. The fees for the respective licenses and certificates of registration issued pursuant to this act for periods of less or greater than one year shall be in amounts proportionately less or greater than the fees established by law.

#### **45:1–7.1. Application to holders of professional or occupational licenses**

- a. Notwithstanding any other act or regulation to the contrary, the provisions of this section and sections 6 and 7 of P.L.1999, c. 403 (C.45:1–7.2 et al.) shall apply to every holder of a professional or occupational license or certificate of registration or certification issued or renewed by a board specified in section 2 of P.L. 1978, c. 73 (C.45:1–15), who seeks renewal of that license or certificate.
- b. Every holder of a professional or occupational license or certificate of registration or certification, issued or renewed by a board specified in section 2 of P.L.1978, c. 73 (C.45:1–15), who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate of registration or certification. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any professional or occupational license or certificate of registration or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.

- c. Any individual who continues to practice with an expired license or certificate of registration or certification after 30 days following its expiration date shall be deemed to be engaged in unlicensed practice of the regulated profession or occupation, even if no notice of suspension has been provided to the individual.
- d. A professional or occupational license or certificate of registration or certification suspended pursuant to this section may be reinstated within five years following its date of expiration upon submission of a renewal application and payment of an additional reinstatement fee. An applicant seeking reinstatement of a license or certificate suspended pursuant to this section more than five years past its expiration date shall successfully complete the examination required for initial licensure, registration or certification and submit a renewal application and payment of an additional reinstatement fee.
- e. A board specified in section 2 of P.L. 1978, c. 73 (C. 45:1–15) shall send a notice of renewal to each of its holders of a professional or occupational license or certificate of registration or certification, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, renew.

#### **45:1–7.2. Reinstatement**

A board may reinstate the professional or occupational license or certificate of registration or certification of an applicant whose license or certificate has been suspended pursuant to section 5 of P.L.1999, c. 403 (C.45:1–7.1), provided that the applicant otherwise qualifies for licensure, registration or certification and submits the following upon application for reinstatement:

- a. Payment of all past delinquent renewal fees;
- b. Payment of a reinstatement fee;
- c. An affidavit of employment listing each job held during the period of suspended license, registration or certification which includes the names, addresses, and telephone numbers of each employer; and
- d. If applicable, satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license or certificate of registration or certification.

#### **45:1–7.3. Renewal applications**

- a. Renewal applications for all professional or occupational licenses or certificates of registration or certification shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in professional or occupational practice within the State.
- b. An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the board, the board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that he has maintained proficiency by completing the continuing education hours or credits required for the renewal of an active license, registration or certification, if applicable. The continuing education hours or credits shall be completed by the applicant within three years prior to the date of application for the return to active status, unless otherwise provided by board rule.



#### **45:1–8. Contractors; application of § 45:1–9**

The provisions of this act apply to the following classes of contractors:

- a. Tree experts, certified pursuant to P.L.1940, c. 100 (C. 13:1–28 et seq.<sup>1</sup>);
- b. Home repair contractors, licensed pursuant to P.L.1960, c. 41 (C. 17:16C–62 et seq.);
- c. Electrical contractors, licensed pursuant to P.L.1962, c. 162 (C. 45:5A–1 et seq.);
- d. Master plumbers, licensed pursuant to P.L.1968, c. 362 (C. 45:14C–1 et seq.);
- e. Well drillers, licensed pursuant to P.L.1947, c. 377 (C. 58:4A–5 et seq.); and
- f. Any class of contractors who hereafter are licensed by the State.

<sup>1</sup>Renumbered C. 45:15C–1 to 45:15C–10.

#### **45:1–9. Indication of license or certificate number on contracts, bids and advertisements**

Any contractor licensed by the State shall indicate his license or certificate number on all contracts, subcontracts, bids and all forms of advertising as a contractor.

#### **45:1–10. Disclosure of laboratory payments on bills to patients and third party payors**

It shall be unlawful for any person licensed in the State of New Jersey to practice medicine or surgery, dentistry, osteopathy, podiatry or chiropractic to agree with any clinical, bio-analytical or hospital laboratory, wheresoever located, to make payments to such laboratory for individual tests, combination of tests, or test series for patients unless such person discloses on the bills to patients and third party payors the name and address of such laboratory and the net amount or amounts paid or to be paid to such laboratory for individual tests, combination of tests or test series.

##### **45:1–10.1. Claims for third party payment; licensed health care professional; responsibility for filing**

Effective 12 months after the adoption of regulations establishing standard health care enrollment and claim forms by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30–23), a health care professional licensed pursuant to Title 45 of the Revised Statutes is responsible for filing all claims for third party payment, including claims filed on behalf of the licensed professional's patient for any health care service provided by the licensed professional that is eligible for third party payment, except that at the patient's option, the patient may file the claim for third party payment.

- a. In the case of a claim filed on behalf of the professional's patient, the professional shall file the claim within 60 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30–23).
- b. In the case of a claim in which the patient has assigned his benefits to the professional, the professional shall file the claim within 180 days of the last date of service for a course of treatment, on the standard claim form adopted by the Commissioner of Banking and Insurance pursuant to section 1 of P.L.1999, c. 154 (C.17B:30–23). If the professional does not file the claim within 180 days of the last date of service for a course of treatment, the third party payer shall reserve the right to deny payment of the claim, in accordance with regulations established

by the Commissioner of Banking and Insurance, and the professional shall be prohibited from seeking any payment directly from the patient.

- (1) In establishing the standards for denial of payment, the Commissioner of Banking and Insurance shall consider the good faith use of information provided by the patient to the professional with respect to the identity of the patient's third party payer, delays in filing a claim related to coordination of benefits between third party payers and any other factors the commissioner deems appropriate, and, accordingly, shall define specific instances where the sanctions permitted pursuant to this subsection shall not apply.
- (2) A professional who fails to file a claim within 180 days and whose claim for payment has been denied by the third party payer in accordance with this subsection may, in the discretion of a judge of the Superior Court, be permitted to refile the claim if the third party payer has not been substantially prejudiced thereby. Application to the court for permission to refile a claim shall be made within 14 days of notification of denial of payment and shall be made upon motion based upon affidavits showing sufficient reasons for the failure to file the claim with the third party payer within 180 days.
  - c. The provisions of this section shall not apply to any claims filed pursuant to P.L.1972, c. 70 (C.39:6A-1 et seq.).
  - d. A health care professional who violates the provisions of subsection a. of this section may be subject to a civil penalty of \$250 for each violation plus \$50 for each day after the 60th day that the provider fails to submit a claim. The penalty shall be sued for and collected by the Division of Consumer Affairs in the Department of Law and Public Safety pursuant to "the penalty enforcement law," N.J.S.2A:58-1 et seq.

#### **45:1-11. Violations; penalty**

Any person violating this act shall be guilty of a misdemeanor.

#### **45:1-12. Podiatrist, optometrist or psychologist or professional service corporation; charge for completion of claim form for health insurance; fine; collection and enforcement**

No podiatrist, optometrist or psychologist and no professional service corporation engaging in the practice of podiatry, optometry or psychology in this State shall charge a patient an extra fee for services rendered in completing a medical claim form in connection with a health insurance policy. Any person violating this act shall be subject to a fine of \$100.00 for each offense.

Such penalty shall be collected and enforced by summary proceedings pursuant to the Penalty Enforcement Law (N.J.S. 2A:58-1 et seq.). The Superior Court and municipal court shall have jurisdiction within its territory of such proceedings. Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the State Board of Medical Examiners with respect to podiatrists, the New Jersey State Board of Optometry for optometrists or the State Board of Psychological Examiners for psychologists.

#### **45:1-13. Repealed by L.1999, c. 403, § 12, eff. Jan. 18, 2000**

#### **45:1-14. Legislative findings and declarations; liberal construction of act**

The Legislature finds and declares that effective implementation of consumer protection laws and the administration of laws pertaining to the professional and occupational boards located within the

Division of Consumer Affairs require uniform investigative and enforcement powers and procedures and uniform standards for license revocation, suspension and other disciplinary proceedings by such boards. This act is deemed remedial, and the provisions hereof should be afforded a liberal construction.

#### **45:1–15. Boards and professions or occupations regulated by or through such boards; application of act**

The provisions of this act shall apply to the following boards and all professions or occupations regulated by, through or with the advice of those boards: the New Jersey State Board of Accountancy, the New Jersey State Board of Architects, the New Jersey State Board of Cosmetology and Hairstyling, the Board of Examiners of Electrical Contractors, the New Jersey State Board of Dentistry, the State Board of Mortuary Science of New Jersey, the State Board of Professional Engineers and Land Surveyors, the State Board of Marriage and Family Therapy Examiners, the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Optometrists, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Board of Pharmacy, the State Board of Professional Planners, the State Board of Psychological Examiners, the State Board of Examiners of Master Plumbers, the State Board of Shorthand Reporting, the State Board of Veterinary Medical Examiners, the Acupuncture Examining Board, the State Board of Chiropractic Examiners, the State Board of Respiratory Care, the State Real Estate Appraiser Board, the State Board of Social Work Examiners, the State Board of Physical Therapy Examiners, the Professional Counselor Examiners Committee, the New Jersey Cemetery Board, the Orthotics and Prosthetics Board of Examiners, the Occupational Therapy Advisory Council, the Electrologists Advisory Committee, the Alcohol and Drug Counselor Committee, the Fire Alarm, Burglar Alarm, and Locksmith Advisory Committee, the Home Inspection Advisory Committee, the Massage, Bodywork and Somatic Therapy Examining Committee, and the Audiology and Speech–Language Pathology Advisory Committee.

##### **45:1–15.1. Rules and regulations**

Consistent with their enabling acts, P.L.1978, c. 73 (C.45:1–14 et seq.) and the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.), the boards and others set forth in section 2 of P.L.1978, c. 73 (C.45:1–15) are authorized to adopt rules and regulations to serve the public health, safety and welfare.

##### **45:1–16. Definitions**

As used within this act the following words or terms shall have the indicated definition unless the context clearly indicates otherwise.

“Board” means any professional or occupational licensing board designated in section 2 of this act.<sup>1</sup>

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Person” means any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trust thereof.

<sup>1</sup>N.J.S.A. § 45:1–15.

#### **45:1–17. Powers of Attorney General to implement act and administer law enforcement activities of boards**

In implementing the provisions of this act and administering the law enforcement activities of those professional and occupational boards located within the Division of Consumer Affairs, the Attorney General may:

- a. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate rules and regulations consistent with the provisions of this act and the Administrative Procedure Act, P.L.1968, c. 410 (C. 52:14B–1 et seq.) governing the procedure for administrative hearings before all boards within the Division of Consumer Affairs. Such rules and regulations shall govern administrative complaints, answers thereto, issuance of subpoenas, appointment of hearing examiners, adjournments, submission of proposed findings of fact and conclusions of law, the filing of briefs, and such other procedural aspects of administrative hearings before the boards as the Attorney General may deem necessary; provided, however, nothing herein authorized shall be construed to require the Attorney General to promulgate rules regarding prehearing investigative procedures.
- b. After advice to the board or boards in question of his intent to proceed under this section, and the specific action he intends to take, and the failure of such board or boards to take steps in accordance with the advice of the Attorney General within 30 days of receipt of such advice, promulgate substantive rules and regulations consistent with the provisions of any statute governing the activities of any licensing agency, board or committee located within the Division of Consumer Affairs, which shall be limited to disciplinary matters and arbitrary restrictions on initial licensure. In addition to promulgating such rules and regulations, the Attorney General may direct that any proposed or existing regulation be amended, abandoned or repealed. Prior to the final adoption of any regulation affecting the activities of any professional or occupational licensing agency, board or committee located within the division and prior to the issuance of any directive to amend, abandon or repeal any regulation, the Attorney General or his designee shall first consult with the agency, board or committee whose activities are affected regarding the proposed action.
- c. After a full consideration of all relevant facts and the applicable law, may direct the initiation of any appropriate enforcement action by a professional or occupational licensing board or set aside, modify or amend, as may be necessary, any action or decision of a licensing agency, board or committee located within the Division of Consumer Affairs; provided, however, no such action shall be directed by the Attorney General in reviewing the action or decision of an agency, board or committee unless such action or decision is contrary to applicable law.

#### **45:1–18. Investigative powers of boards, director or attorney general**

Whenever it shall appear to any board, the director or the Attorney General that a person has engaged in, or is engaging in any act or practice declared unlawful by a statute or regulation administered by such board, or when the board, the director or the Attorney General shall deem it to be in the public interest to inquire whether any such violation may exist, the board or the director through the Attorney General, or the Attorney General acting independently, may exercise any of the following investigative powers:

- a. Require any person to file on such form as may be prescribed, a statement or report in writing under oath, or otherwise, as to the facts and circumstances concerning the rendition of any service or conduct of any sale incidental to the discharge of any act or practice subject to an act or regulation administered by the board;
- b. Examine under oath any person in connection with any act or practice subject to an act or regulation administered by the board;
- c. Inspect any premises from which a practice or activity subject to an act or regulation administered by the board is conducted;
- d. Examine any goods, ware or item used in the rendition of a practice or activity subject to an act or regulation administered by the board;
- e. Examine any record, book, document, account or paper prepared or maintained by or for any professional or occupational licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in practices subject to an act or regulation administered by the board. Nothing in this subsection shall require the notification or consent of the person to whom the record, book, account or paper pertains, unless otherwise required by law;
- f. For the purpose of preserving evidence of an unlawful act or practice, pursuant to an order of the Superior Court, impound any record, book, document, account, paper, goods, ware, or item used, prepared or maintained by or for any board licensee in the regular course of practicing such profession or engaging in such occupation or any individual engaging in a practice or activity subject to an act or regulation administered by the board. In such cases as may be necessary, the Superior Court may, on application of the Attorney General, issue an order sealing items or material subject to this subsection; and
- g. Require any board licensee, permit holder or registered or certified person to submit to an assessment of skills to determine whether the board licensee, permit holder or registered or certified person can continue to practice with reasonable skill and safety. In order to accomplish the objectives of this act or any act or regulation administered by a board, the Attorney General may hold such investigative hearings as may be necessary and the board, director or Attorney General may issue subpoenas to compel the attendance of any person or the production of books, records or papers at any such hearing or inquiry.

**45:1–19. Failure or refusal to file statement or report, refusal of access to premises or failure to obey subpoena; penalty**

If any person shall fail or refuse to file any statement or report or refuse access to premises from which a licensed profession or occupation is conducted in any lawfully conducted investigative matter or fail to obey a subpoena issued pursuant to this act, the Attorney General may apply to the Superior Court and obtain an order:

- a. Adjudging such person in contempt of court; or
- b. Granting such other relief as may be required; or
- c. Suspending the license of any such person unless and until compliance with the subpoena or investigative demand is effected.

**45:1–20. Compelling testimony or production of book, paper or document; immunity from prosecution**

If any person shall refuse to testify or produce any book, paper, or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper, or document by the Attorney General, he shall comply with such direction. A person who is entitled by law to, and does assert such privilege, and who complies with such direction of the Attorney General shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony or from any civil or administrative action arising from such testimony.

**45:1–21. Grounds for refusal to admit to examination or denial, suspension or revocation of any certificate, registration or license; definitions**

A board may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board upon proof that the applicant or holder of such certificate, registration or license:

- a. Has obtained a certificate, registration, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
- b. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
- c. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property of any person;
- d. Has engaged in repeated acts of negligence, malpractice or incompetence;
- e. Has engaged in professional or occupational misconduct as may be determined by the board;
- f. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to the activity regulated by the board. For the purpose of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
- g. Has had his authority to engage in the activity regulated by the board revoked or suspended by any other state, agency or authority for reasons consistent with this section;
- h. Has violated or failed to comply with the provisions of any act or regulation administered by the board;
- i. Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare;
- j. Has repeatedly failed to submit completed applications, or parts of, or documentation submitted in conjunction with, such applications, required to be filed with the Department of Environmental Protection;
- k. Has violated any provision of P.L.1983, c. 320 (C.17:33A–1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative

proceedings, of a violation of P.L.1983, c. 320 (C.17:33A–1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;

- l. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term “presently” means at this time or any time within the previous 365 days;
- m. Has prescribed or dispensed controlled dangerous substances indiscriminately or without good cause, or where the applicant or holder knew or should have known that the substances were to be used for unauthorized consumption or distribution;
- n. Has permitted an unlicensed person or entity to perform an act for which a license or certificate of registration or certification is required by the board, or aided and abetted an unlicensed person or entity in performing such an act;
- o. Advertised fraudulently in any manner. The division is authorized, for purposes of facilitating determinations concerning licensure eligibility, to require the fingerprinting of each applicant in accordance with applicable State and federal laws, rules and regulations. Each applicant shall submit the applicant’s name, address, and written consent to the director for a criminal history record background check to be performed. The division is authorized to receive criminal history record information from the State Bureau of Identification in the Division of State Police and the Federal Bureau of Investigation. Upon receipt of such notification, the division shall forward the information to the appropriate board which shall make a determination regarding the issuance of licensure. The applicant shall bear the cost for the criminal history record background check, including all costs of administering and processing the check, unless otherwise provided for by an individual enabling act. The Division of State Police shall promptly notify the division in the event an applicant or licensee, who was the subject of a criminal history record background check pursuant to this section, is convicted of a crime or offense in this State after the date the background check was performed.

For purposes of this act:

“Completed application” means the submission of all of the information designated on the checklist, adopted pursuant to section 1 of P.L.1991, c. 421 (C.13:1D–101), for the class or category of permit for which application is made.

“Permit” has the same meaning as defined in section 1 of P.L.1991, c. 421 (C.13:1D–101).

#### **45:1–21.1. Annual summary of compliance information and attendance at continuing education seminars; costs; information deemed public records**

- a. A board obtaining information from the Department of Environmental Protection pursuant to section 1 of P.L.1991, c. 418 (C. 13:1D–110) on the compliance of a member of a regulated profession with the requirements for completed applications of the department, shall annually develop a detailed written summary of the information gathered by the department pursuant to P.L.1991, c. 418 (C. 13:1D–110) regarding compliance with the department’s requirements for completed applications and attendance records for continuing education seminars required to be filed with the department pursuant to section 2 of P.L.1991, c. 419 (C. 13:1D–117).
- b. Any reasonable costs incurred in preparation of the report required pursuant to this section may be included in the charges authorized pursuant to P.L.1974, c. 46 (C. 45:1–3.2).

- c. Information required to be compiled by a board pursuant to this section, shall be deemed to be public records subject to the requirements of P.L.1963, c. 73 (C. 47:1A–1 et seq.).

#### **45:1–21.2. Suspension of certain licenses; hearing**

The director or a board shall suspend, as appropriate, after a hearing, the license, registration or certification of any person who has been certified by a lender or guarantor and reported to the director or the board, as the case may be, for nonpayment or default of a State or federal direct or guaranteed educational loan. The license, registration or certification shall not be reissued until the person provides the director or board with a written release issued by the lender or guarantor stating that the person has cured the default or is making payments on the loan in accordance with a repayment agreement approved by the lender or guarantor. If the person has continued to meet all other requirements for licensure, registration or certification during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director or the board may impose.

#### **45:1–21.3. Licensed health care professionals; penalties for violation of § 30:6D–5.3**

A health care professional licensed or otherwise authorized to practice as a health care professional pursuant to Title 45 of the Revised Statutes who violates the provisions of section 3 of P.L.2003, c. 191 (C.30: 6D–5.3) shall, in addition to being liable to a civil penalty pursuant to section 4 of P.L.2003, c. 191 (C.30:6D–5.4), be subject to revocation of that individual’s professional license or other authorization to practice as a health care professional by the appropriate licensing board in the Division of Consumer Affairs in the Department of Law and Public Safety, after appropriate notice and opportunity for a hearing.

#### **45:1–22. Additional or alternative penalties to revocation, suspension or refusal to renew; temporary order suspending or limiting license; subpoena**

In addition or as an alternative, as the case may be, to revoking, suspending or refusing to renew any license, registration or certificate issued by it, a board may, after affording an opportunity to be heard:

- a. Issue a letter of warning, reprimand, or censure with regard to any act, conduct or practice which in the judgment of the board upon consideration of all relevant facts and circumstances does not warrant the initiation of formal action;
- b. Assess civil penalties in accordance with this act;
- c. Order that any person violating any provision of an act or regulation administered by such board to cease and desist from future violations thereof or to take such affirmative corrective action as may be necessary with regard to any act or practice found unlawful by the board;
- d. Order any person found to have violated any provision of an act or regulation administered by such board to restore to any person aggrieved by an unlawful act or practice, any moneys or property, real or personal, acquired by means of such act or practice; provided, however, no board shall order restoration in a dollar amount greater than those moneys received by a licensee or his agent or any other person violating the act or regulation administered by the board;



- e. Order any person, as a condition for continued, reinstated or renewed licensure, to secure medical or such other professional treatment as may be necessary to properly discharge licensee functions;
- f. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to any medical or diagnostic testing and monitoring or psychological evaluation which may be required to evaluate whether continued practice may jeopardize the safety and welfare of the public;
- g. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to take and successfully complete educational training determined by the board to be necessary;
- h. Order any person, as a condition for continued, reinstated or renewed licensure, to submit to an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety, and to submit to any supervision, monitoring or limitation on practice determined by the board to be necessary.

A board may, upon a duly verified application of the Attorney General that either provides proof of a conviction of a court of competent jurisdiction for a crime or offense involving moral turpitude or relating adversely to the regulated profession or occupation, or alleges an act or practice violating any provision of an act or regulation administered by such board, enter a temporary order suspending or limiting any license issued by the board pending plenary hearing on an administrative complaint; provided, however, no such temporary order shall be entered unless the application made to the board palpably demonstrates a clear and imminent danger to the public health, safety and welfare and notice of such application is given to the licensee affected by such order. If, upon review of the Attorney General's application, the board determines that, although no palpable demonstration of a clear and imminent danger has been made, the licensee's continued unrestricted practice pending plenary hearing may pose a risk to the public health, safety and welfare, the board may order the licensee to submit to medical or diagnostic testing and monitoring, or psychological evaluation, or an assessment of skills to determine whether the licensee can continue to practice with reasonable skill and safety. In any administrative proceeding commenced on a complaint alleging a violation of an act or regulation administered by a board, such board may issue subpoenas to compel the attendance of witnesses or the production of books, records, or documents at the hearing on the complaint.

#### **45:1–23. Summary proceeding in Superior Court; injunction; orders necessary to prevent unlawful practice or remedy past unlawful activity**

Whenever it shall appear to a board, the director or the Attorney General that a violation of any act, including the unlicensed practice of the regulated profession or occupation, or regulation administered by such board has occurred, is occurring, or will occur, the Attorney General, in addition to any other proceeding authorized by law, may seek and obtain in a summary proceeding in the Superior Court an injunction prohibiting such act or practice. In any such proceeding the court may assess a civil penalty in accordance with the provisions of this act, order restoration to any person in interest of any moneys or property, real or personal, acquired by means of an unlawful act or practice and may enter such orders as may be necessary to prevent the performance of an unlawful practice in the future and to fully remedy any past unlawful activity. In any action brought pursuant to this section, the court shall not suspend or revoke any license issued by a board.

#### **45:1–24. Failure to comply with order of board directing payment of penalties or restoration of moneys or property; enforcement**

Upon the failure of any person to comply within 10 days after service of any order of a board directing payment of penalties or restoration of moneys or property, the Attorney General or the secretary of such board may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted and of the State, a designation of the statute under which the penalty is imposed, the amount of the penalty imposed, and amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court, and the Attorney General shall have all rights and remedies of a judgment creditor in addition to exercising any other available remedies. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the board's order. An action to enforce the provisions of any order entered by a board or to collect any penalty levied thereby may be brought in any municipal court or the Superior Court in summary manner pursuant to the Penalty Enforcement Act, (N.J.S. 2A:58–1 et seq.) and the rules of court governing the collection of civil penalties. Process in such action shall be by summons or warrant, and in the event that the defendant fails to answer such action, the court shall issue a warrant for the defendant's arrest for the purpose of bringing such person before the court to satisfy any order entered.

#### **45:1–25. Violations; civil penalty; action to collect or enforce**

- a. Any person who engages in any conduct in violation of any provision of an act or regulation administered by a board shall, in addition to any other sanctions provided herein, be liable to a civil penalty of not more than \$10,000 for the first violation and not more than \$20,000 for the second and each subsequent violation. For the purpose of construing this section, each act in violation of any provision of an act or regulation administered by a board shall constitute a separate violation and shall be deemed a second or subsequent violation under the following circumstances:
  - (1) an administrative or court order has been entered in a prior, separate and independent proceeding;
  - (2) the person is found within a single proceeding to have committed more than one violation of any provision of an act or regulation administered by a board; or
  - (3) the person is found within a single proceeding to have committed separate violations of any provision of more than one act or regulation administered by a board.
- b. In lieu of an administrative proceeding or an action in the Superior Court, the Attorney General may bring an action in the name of any board for the collection or enforcement of civil penalties for the violation of any provision of an act or regulation administered by such board. Such action may be brought in summary manner pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c. 274 (C.2A:58–10 et seq.) and the rules of court governing actions for the collection of civil penalties in the municipal court where the offense occurred. Process in such action may be by summons or warrant and in the event that the defendant in such action fails to answer such action, the court shall, upon finding an unlawful act or practice to have been committed by the defendant, issue a warrant for the defendant's arrest in order to bring such person before the court to satisfy the civil penalties imposed. In any action commenced pursuant to this section, the court may order restored to any person in interest any moneys or property acquired by means of an unlawful act or practice.

- c. Any action alleging the unlicensed practice of a profession or occupation shall be brought pursuant to this section or, where injunctive relief is sought, by an action commenced in the Superior Court.
- d. In any action brought pursuant to this act, a board or the court may order the payment of costs for the use of the State, including, but not limited to, costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs.

#### **45:1–26. Repeal of inconsistent acts and parts of acts**

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

#### **45:1–27. Severability**

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

#### **45:1–28. Definitions**

As used in this act:

“Applicant” means an applicant for licensure or other authorization to engage in a health care profession.

“Board” means a professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Division” means the Division of Consumer Affairs in the Department of Law and Public Safety.

“Health care professional” means a health care professional who is licensed or otherwise authorized, pursuant to Title 45 or Title 52 of the Revised Statutes, to practice a health care profession that is regulated by one of the following boards or by the Director of the Division of Consumer Affairs: the State Board of Medical Examiners, the New Jersey Board of Nursing, the New Jersey State Board of Dentistry, the New Jersey State Board of Optometrists, the Board of Pharmacy of the State of New Jersey, the State Board of Chiropractic Examiners, the Acupuncture Examining Board, the State Board of Physical Therapy, the State Board of Respiratory Care, the Orthotics and Prosthetics Board of Examiners, the State Board of Psychological Examiners, the State Board of Social Work Examiners, the State Board of Veterinary Medical Examiners, the State Board of Examiners of Ophthalmic Dispensers and Ophthalmic Technicians, the Audiology and Speech–Language Pathology Advisory Committee, the State Board of Marriage and Family Therapy Examiners, the Occupational Therapy Advisory Council or the Certified Psychoanalysts Advisory Committee. Health care professional shall not include a nurse aide or personal care assistant who is required to undergo a criminal history record background check pursuant to section 2 of P.L.1997, c. 100 (C.26:2H–83) or a homemaker-home health aide who is required to undergo a criminal history record background check pursuant to section 7 of P.L.1997, c. 100 (C.45:11–24.3).

**45:1–29. Criminal history information from FBI and State Police required before initial license issued**

- a. A professional and occupational licensing board within the Division of Consumer Affairs in the Department of Law and Public Safety or the director who regulates the practice of a health care professional, as applicable, shall not issue an initial license or other authorization to practice a health care profession that is regulated by that board or the director to any applicant therefor unless the board or director, as applicable, first determines, consistent with section 8 of P.L.1978, c. 73 (C.45:1–21), that no criminal history record information exists on file in the Federal Bureau of Investigation, Identification Division, or in the State Bureau of Identification in the Division of State Police, which may disqualify the applicant from being licensed or otherwise authorized to practice as a health care professional.

**45:1–30. Information supplied by applicant, exchange of information with other law enforcement agencies; notification upon receipt of information**

- a. An applicant who is required to undergo a criminal history record background check pursuant to section 2 of this act shall submit to the director that individual's name, address and fingerprints taken on standard fingerprint cards by a State or municipal law enforcement agency or by a private entity under contract with the State. The director is authorized to exchange fingerprint data with and receive criminal history record information from the Federal Bureau of Investigation and the Division of State Police for use in making the determinations required pursuant to this act.
- b. Upon receipt of the criminal history record information for an applicant from the Federal Bureau of Investigation or the Division of State Police, the director shall immediately notify the board, as applicable.
- c. If an applicant refuses to consent to, or cooperate in, the securing of a criminal history record background check, the board or director, as applicable, shall not issue a license or other authorization to the applicant and shall notify the applicant of that denial.

**45:1–31. Cost of criminal history record check**

An applicant shall be required to assume the cost of the criminal history record background check conducted pursuant to sections 1 through 3 of this act and section 14 of P.L.1997, c. 100 (C.53:1–20.9a), in accordance with procedures determined by regulation of the director.

**45:1–32. Rules and regulations**

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, pursuant to the "Administrative Procedure Act,"

## **CHAPTER 2D.**

### **ALCOHOL AND DRUG COUNSELORS**

#### **45:2D–1. Short title**

This act <sup>1</sup> shall be known and may be cited as the “Alcohol and Drug Counselor Licensing and Certification Act.”

<sup>1</sup>N.J.S.A. § § 45:2D–1 to 45:2D–18.

#### **45:2D–2. Legislative findings and declarations**

The Legislature finds and declares that: the profession of alcohol and drug counseling profoundly affects the lives and public safety of the people of New Jersey; the public interest requires the establishment of professional licensing and certification standards for alcohol and drug counselors to protect the citizens of this State by setting standards of education, ethics, competencies and experience for those persons presently practicing and for those seeking to practice and be licensed or certified as alcohol and drug counselors in this State; licensing and certification will enable other professionals, health services providers, employers and the general public to recognize qualified practicing alcohol and drug counselors; and licensing and certification will provide assurances that professionals engaged in alcohol and drug counseling meet acceptable standards of education, experience, ethics and competency in practice which will encourage and promote quality treatment and rehabilitation for drug and alcohol abusers.

#### **45:2D–3. Definitions**

As used in this act:

“Alcohol and drug counseling” means the professional application of alcohol and drug counseling methods which assist an individual or group to develop an understanding of alcohol and drug dependency problems, define goals, and plan action reflecting the individual’s or group’s interest, abilities and needs as affected by alcohol and drug dependency problems.

“Alcohol and Drug Counselor Certification Board of New Jersey, Inc.” means the member of the International Certification Reciprocity Consortium of Alcohol and Other Drug Abuse, Inc. which certifies alcohol and drug counselors in the State of New Jersey.

“Board” means the State Board of Marriage and Family Therapy Examiners.

“Certified alcohol and drug counselor” means a person who holds a current, valid certificate issued pursuant to section 5 of this act.<sup>1</sup>

“Committee” means the Alcohol and Drug Counselor Committee established pursuant to section 12 of this act.<sup>2</sup>

“Department” means the Department of Law and Public Safety.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Licensed clinical alcohol and drug counselor” means a person who holds a current, valid license issued pursuant to section 4 of this act.<sup>3</sup>

“Self-help group” means a voluntary group of persons who offer peer support to each other in recovering from an addiction.

“Supervised practical training” means supervision which seeks to teach the knowledge and skills related to alcohol and drug counseling.

“Supervision” means the direct review of a supervisee for the purpose of accountability, teaching, training, administering, or clinical review by a supervisor in the same area of specialized practice.

<sup>1</sup>N.J.S.A. § 45:2D-5.

<sup>2</sup>N.J.S.A. § 45:2D-12.

<sup>3</sup>N.J.S.A. § 45:2D-4.

#### **45:2D-4. Application for licensure; licensed alcohol and drug counselor**

- a. Each person applying for licensure as a licensed clinical alcohol and drug counselor shall make application to the board on the form and in the manner the committee prescribes and the board shall immediately refer each application to the committee for appropriate action. Each applicant shall furnish evidence satisfactory to the committee that he has:
  - (1) Received a master’s degree from an accredited institution of higher education with a minimum of 18 graduate semester hours in counseling or counseling related subjects; and
  - (2) Successfully completed all the requirements to be a certified alcohol and drug counselor pursuant to section 5 of this act.<sup>1</sup>
- b. The board shall issue a license as a licensed clinical alcohol and drug counselor to any health care provider licensed by this State who, within the scope of that provider’s practice, diagnoses and treats drug or alcohol related disorders, or both, and demonstrates to the board that the person has equivalent education, training and comparable years of experience as required pursuant to subsection a. of this section, except that the person shall be exempt from meeting the provisions of paragraphs (5) and (6) of subsection a. of section 5 of this act.

<sup>1</sup>N.J.S.A. § 45:2D-5.

#### **45:2D-5. Application for licensure; certified alcohol and drug counselor**

- a. Each person applying for certification as a certified alcohol and drug counselor shall make application to the board on the form and in the manner the committee prescribes and the board shall immediately refer each application to the committee for appropriate action. Each applicant shall furnish evidence satisfactory to the committee that he has received a high school diploma or a certificate of high school equivalency and that he has:
  - (1) Had 300 hours of supervised practical training in alcohol and drug counseling acceptable to the board. This practical training may be part of the work experience pursuant to paragraph (2) of this subsection a. and may be completed under more than one agency or supervisor;
  - (2) Had two years of supervised work experience acceptable to the board which may be paid or voluntary time working directly with alcohol or other drug clients. This experience may include both direct and indirect functions. Formal education or unsupervised work experience may not be substituted for the required experience;
  - (3) Completed 270 hours of alcohol and drug education, including formal classroom education, workshops, seminars, institutes, in-service training and college or university work. This education shall be related to the knowledge and skill base associated with the functions of an alcohol and drug

counselor. All education shall be approved by the board;

- (4) Attended alcohol and drug abuse self-help group meetings as prescribed by the board; and
  - (5) Successfully completed an oral examination on the applicant's written case presentation; and
  - (6) Successfully completed a written examination provided by the board, which may be a written examination administered by a nationally recognized alcohol and drug counseling certification organization.
- b. The experience and education requirements in subsection a. of this section shall insure that the applicant is competent in the functions of an alcohol and drug abuse counselor, which include: screening, intake, orientation, assessment, treatment planning, counseling, case management, crisis intervention, education and prevention, referral, consultation with other professionals in regard to client treatment and services, and reporting and recordkeeping.

#### **45:2D–6. Review of applicants' qualifications**

The committee shall review the qualifications of each person who applies for licensure or certification. No applicant shall be licensed or certified by the board unless a majority of the full committee first determines that the applicant has met the education and experience requirements and performed satisfactorily on the appropriate examinations required pursuant to this act. All applicants who are determined to be qualified and are recommended for licensure or certification by the committee shall be considered for licensure or certification by the board, with the final decisions to be made by the board. The board is authorized to review the actions taken by the committee with respect to the committee's evaluation and examination of applicants for licensure as licensed clinical alcohol and drug counselors or for certification as certified alcohol and drug counselors and the board may reverse, modify or fail to implement any determination by the committee with an affirmative vote of a majority of the board.

#### **45:2D–7. Renewal of license or certification**

Each initial application under this act shall be accompanied by a fee as prescribed by the committee. Licenses and certifications shall be renewed biennially upon a form provided by the board, accompanied by payment of a fee prescribed by the board. Each applicant shall apply for renewal of licensure or certification within 180 days of expiration, and shall present satisfactory evidence that the continuing education requirements have been completed. If the certificate or license is not renewed within 180 days of expiration, the license or certification shall be revoked upon notice by the board. A license or certification which has been revoked may be reinstated within three years, upon payment to the board of a prescribed reinstatement fee in addition to the renewal fee for each year or part thereof during which the license or certification was ineffective. After the three-year period, the license or certification may be reinstated only by complying with the provisions of this act regarding initial licensure or certification.

#### **45:2D–8. Engaging in the practice of alcohol or drug counseling; licensure or certification required**

- a. No person shall engage in the practice of alcohol and drug counseling as a licensed clinical alcohol and drug counselor unless licensed under this act. No person shall engage in the practice of alcohol and drug counseling as a certified alcohol and drug counselor unless certified under this act. No person shall present, call or represent himself as a licensed clinical alcohol and drug counselor unless licensed under this act. No person shall present, call or represent himself as a certified alcohol and drug counselor unless certified under this act.

- b. No person shall assume, represent himself as, or use the title or designation “alcoholism counselor,” “alcohol counselor,” “drug counselor,” “alcohol and drug counselor,” “alcoholism and drug counselor,” “licensed clinical alcohol and drug counselor,” “certified alcohol and drug counselor,” “substance abuse counselor,” “chemical dependency counselor,” or “chemical dependency supervisor,” or any of the abbreviations for the above titles, unless licensed or certified under this act, and unless the title or designation corresponds to the license or certification held by the person pursuant to this act.
- c. No person shall engage in the independent practice of alcohol and drug counseling for a fee unless the person is licensed under this act as a licensed clinical alcohol and drug counselor or the person is a certified alcohol and drug counselor practicing under the supervision of a licensed clinical alcohol and drug counselor.

#### **45:2D–9. Activities not within scope of this act**

- a. Nothing in this act shall be construed to prevent a person from engaging in or offering alcohol and drug addiction services such as selfhelp, sponsorship through alcoholics and narcotics anonymous groups or other uncompensated alcohol and drug addiction counseling assistance.
- b. Nothing in this act shall be construed to apply to the activities and services of a designated employee or other agent of a private employer who has been designated to be involved in the evaluation or referral for counseling of employees of the private employer, or an employee or other agent of a recognized academic institution, a federal, State, county or local government institution, agency or facility, or a school district, if the individual is performing these activities solely within the company or agency, as the case may be, or under the jurisdiction of that company or agency and if a license granted under this act is not a requirement for employment.
- c. Nothing in this act shall be construed to apply to the activities and services of a rabbi, priest, minister, Christian Science practitioner or clergyman of any religious denomination or sect, when engaging in activities, which are within the scope of the performance of the person’s regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination, or sect, and when the person rendering services remains accountable to the established authority thereof.
- d. Nothing in this act shall be construed to apply to the activities and services of a student, intern or trainee in alcohol and drug addiction counseling pursuing a course of study in counseling in a regionally accredited institution of higher education or training institution, if these activities are performed under supervision and constitute a part of the supervised course of study.
- e. Nothing in this act shall be construed to prevent a person from doing work of an alcohol or drug counseling nature, or advertising those services, when acting within the scope of the person’s profession or occupation and doing work consistent with the person’s training, including physicians, clinical social workers, psychologists, nurses or any other profession or occupation licensed by the State, or students within accredited programs of these professions, if the person does not hold himself out to the public as possessing a license or certification issued pursuant to this act.



#### **45:2D–10. Licensure or certification of persons licensed or certified in another jurisdiction**

The board may grant a license or certification to any person who at the time of application is licensed or certified by a governmental agency located in another state, territory or jurisdiction, if in the opinion of the committee the requirements of that licensure or certification are substantially similar to the requirements of this act.

#### **45:2D–11. Disclosure of confidential information**

An alcohol and drug counselor or clinical alcohol and drug counselor certified or licensed pursuant to the provisions of this act, or his employee, shall not disclose any confidential information that the counselor, or his employee, may have acquired while performing alcohol and drug counseling services for a patient unless in accordance with the federal regulations regarding the confidentiality of alcohol and drug patient records pursuant to 42 C.F.R. 2.1 et seq.

#### **45:2D–12. Alcohol and drug counselor committee; established; membership**

There is established a committee of the board to be known as the Alcohol and Drug Counselor Committee. The committee shall consist of five members who are residents of the State, one of whom shall be a public member appointed pursuant to the provisions of subsection b. of section 2 of P.L.1971, c. 60 (C.45:1–2.2). Of the four remaining members, all shall have been actively engaged in the practice of alcohol and drug counseling for at least five years immediately preceding their appointment, have spent the major portion of time devoted to such activity, during the two years preceding appointment, in this State, and except for the members first appointed, two shall be licensed clinical alcohol and drug counselors and two shall be certified alcohol and drug counselors.

#### **45:2D–13. Committee members; terms; vacancies; meetings**

- a. The Governor shall appoint each member of the committee for terms of three years, except that of the members first appointed, three shall serve for a term of three years and two shall serve for terms of two years. Any vacancy in the membership shall be filled for the unexpired term in the manner provided by the original appointment. No member of the committee may serve more than two successive terms in addition to any unexpired term to which he has been appointed. The Governor may remove any member of the committee for cause. The committee shall annually elect from its members a chairperson and a vice-chairperson. Regular meetings of the committee shall be held at least once during each quarter of the year and special meetings may be held upon the call of the chairperson or the vice-chairperson in the chairperson's absence.
- b. The first appointees to the committee must meet the qualifications to be licensed or certified and shall become licensed clinical alcohol and drug counselors or certified alcohol and drug counselors as soon as practical.

#### **45:2D–14. Powers and duties of committee**

The committee shall, in addition to such other powers and duties as it may possess by law or that may be delegated to the committee by the board:

- a. Administer the provisions of this act;
- b. Evaluate the qualifications and make a determination of the eligibility for licensure and certification of all applicants under this act, attesting to the applicant's professional qualification to practice as a licensed clinical alcohol and drug counselor or certified alcohol and drug counselor;

- c. Investigate allegations of practice violating the provisions of this act;
- d. Conduct hearings pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.), except that the director shall have the right to administer oaths to witnesses, and shall have the power to issue subpoenas for the compulsory attendance of witnesses and the production of pertinent books, papers and records;
- e. Recommend rules and regulations pursuant to the “Administrative Procedure Act,” P.L.1968, c. 410 (C.52:14B–1 et seq.) as it may deem necessary to enable it to perform its duties under and to enforce the provisions of this act, including, but not limited to: rules and regulations that set professional practice standards for licensed clinical alcohol and drug counselors in the independent practice of alcohol and drug counseling for a fee and for certified alcohol and drug counselors;
- f. Maintain a list of the names and addresses of all licensed clinical alcohol and drug counselors and all certified alcohol and drug counselors who are licensed or certified under this act; and
- g. Establish standards for the continuing education of licensed clinical alcohol and drug counselors and certified alcohol and drug counselors .

**45:2D–15. Executive director; member compensation; subpoena authority; license and certification fees**

- a. An executive director of the committee shall be appointed by the director and shall serve at the director’s pleasure. The salary of the executive director shall be determined by the director within the limits of available funds. The director shall be empowered within the limits of available funds to hire any assistants as are necessary to administer this act.
- b. Each member of the committee shall be compensated on a per diem basis pursuant to subsection a. of section 2 of P.L.1977, c. 285 (C.45:1–2.5), and shall be reimbursed for actual expenses reasonably incurred in the performance of the duties as a member or on behalf of the committee.
- c. The committee, through its executive director, may issue subpoenas to compel the attendance of witnesses to testify before the committee and produce relevant books, records and papers before the committee and may administer oaths in taking testimony, in any matter pertaining to its duties under the act, which subpoenas shall issue under the seal of the board and shall be served in the same manner as subpoenas issued out of the Superior Court. A person who refuses or neglects to obey the command of any subpoena, or who, after hearing, refuses to be sworn and testify, shall, in either event, be liable to a penalty.
- d. The board shall by rule or regulation establish, prescribe or change the fees for licenses, certifications or other services provided by the board or the committee pursuant to the provisions of this act.

**45:2D–16. Licensure or certification of practicing counselors**

- a. On or before the 730th day following the effective date of this act, upon application to the board on the form and in the manner the committee prescribes and the board approves, any person certified in New Jersey by the Alcohol and Drug Counselor Certification Board of New Jersey, Inc. as an alcoholism counselor on the enactment date of this act who demonstrates to the board that he has successfully completed 30 classroom hours in drug education may acquire a

certificate as a certified alcohol and drug counselor without meeting the requirements set forth in section 5 of this act.<sup>1</sup>

- b. On or before the 730th day following the effective date of this act, upon application to the board on the form and in the manner the committee prescribes and the board approves, any person certified in New Jersey by the Alcohol and Drug Counselor Certification Board of New Jersey, Inc. as a drug counselor on the enactment date of this act who demonstrates to the board that he has successfully completed 50 classroom hours in alcohol education may acquire a certificate as a certified alcohol and drug counselor without meeting the requirements set forth in section 5 of this act.
- c. On or before the 730th day following the effective date of this act, upon application to the board on the form and in the manner the committee prescribes and the board approves, any person who has practiced as an alcohol and drug counselor for at least five years and is certified in New Jersey by the Alcohol and Drug Counselor Certification Board of New Jersey, Inc. as an alcohol and drug counselor on the enactment date of this act may be licensed as a licensed clinical alcohol and drug counselor without meeting the requirements set forth in section 4 of this act.<sup>2</sup>

<sup>1</sup>N.J.S.A. § 45:2D-5.

<sup>2</sup>N.J.S.A. § 45:2D-4.

#### **45:2D-17. Delegation of board's authority**

The provisions of P.L.1978, c. 73 (C.45:1-14 et seq.) shall apply to this act. The authority of the board may be delegated to the committee at the discretion of the board.

#### **45:2D-18. Repealed by L.2002, c. 104, § 7, eff. Nov. 22, 2003**

# **CHAPTER 34C.**

## **ALCOHOL & DRUG COUNSELOR COMMITTEE**

### **SUBCHAPTER 1. GENERAL PROVISIONS**

#### **13:34C–1.1 Purpose and scope**

- (a) The rules in this chapter implement the provisions of P.L. 1997, c.331, N.J.S.A. 45:2D–1 et seq., The Alcohol and Drug Counselor Licensing and Certification Act.
- (b) This chapter shall apply to all persons presently practicing, those seeking to practice and those seeking licensure or certification to engage in alcohol and drug counseling services in the State of New Jersey.

#### **13:34C–1.2 Definitions**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Accredited institution of higher education” means an educational institution the Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Schools and Colleges, Northwest Association of Schools and Colleges, Southern Association of Schools and Colleges, Western Association of Schools and Colleges or the World Education Service for a degree earned through an institution that is not in the United States.

“Act” means the Alcohol and Drug Counselor Licensing and Certification Act, P.L. 1997, c.331 (N.J.S.A. 45:2D–1 et seq.)

“Addiction Professionals Certification Board of New Jersey, Inc., (APCBNJ)” previously known as the Alcohol and Drug Counselor Certification Board of New Jersey, means the member of the International Certification Reciprocity Consortium (ICRC) of Alcohol and Other Drug

Abuse, Inc. which certified alcohol and drug counselors in the State of New Jersey up to the effective date of these regulations.

“Address of record” means an address designated by a licensee or certificate holder which is part of the licensee’s or certificate holder’s record and which will be disclosed to the public. “Address of record” may be a licensee’s or certificate holder’s home, business or mailing address, but

shall not be a post office box.

“Assessment” means those procedures which identify and evaluate a client’s strengths, weaknesses, problems and needs for the development of a treatment plan to address the extent to which alcohol or drug use has interfered with the client’s ability to function in the major life areas

including, but not limited to, physical health, vocational development, social adaptations, legal involvement and psychological functioning.

“Board” means the State Board of Marriage and Family Therapy Examiners established pursuant to N.J.S.A. 45:8B–1 et seq.

“Case management” means activities which bring services, agencies, resources, or people together within a planned framework of action toward the achievement of established goals.

“Certificate holder” means an individual who is certified by the State Board of Marriage and Family Therapy Examiners as a Certified Alcohol and Drug Counselor.

“Certified alcohol and drug counselor (CADC)” means a person who holds a current, valid certificate issued by the State Board of Marriage and Family Therapy Examiners, as recommended by the Alcohol and Drug Committee, pursuant to N.J.S.A. 45:2D-5 and N.J.A.C. 13:34C-2.3. Under the grandfathering provision set forth at N.J.S.A. 45:2D-16, “certified alcohol and drug counselor” also means a person who held a certificate granted by the Addiction Professionals Certification Board of New Jersey, Inc. prior to the effective date of these regulations.

“Client education” means the provision of information to individuals and groups concerning alcohol and other drug abuse and the available treatment and prevention services.

“Committee” means the Alcohol and Drug Counselor Committee of the State Board of Marriage and Family Therapy Examiners established as a Committee pursuant to N.J.S.A. 45:2D-12.

“Consultation” means conferring with in-house staff or outside professionals to assure comprehensive, quality care for a client.

“Counseling” means the utilization of special skills to assist individuals, families, significant others or groups in achieving an objective through exploration of a problem and its ramifications; examination of attitudes and feelings; consideration of alternative solutions; and decision making.

“Counseling related areas” include educational psychology, guidance and counseling, human development, marriage and family therapy, psychiatric nursing, pastoral counseling, psychology, social work or educational specialist or post master’s degree.

“Crisis intervention” means the provision of services which respond to an alcohol and/or other drug abuser’s needs during acute emotional and/or physical distress.

“Department” means the Department of Law and Public Safety.

“Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

“Effective date” for purposes of N.J.S.A. 45:2D-16 means March 15, 2004.

“Enactment date” means January 9, 1998.

“Health care provider” includes, but is not limited to, a licensed physician, a licensed nurse, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist or a licensed professional counselor.

“Intake” means the administrative and initial assessment procedures for entry into treatment.

“Licensed clinical alcohol and drug counselor (LCADC)” means a person who holds a current, valid license issued pursuant to N.J.S.A. 45:2D-4 and 45:2D-16 and N.J.A.C. 13:34C-2.2 and 2.1(c).

“Licensee” means an individual who is licensed by the New Jersey State Board of Marriage and Family Therapy Examiners, as recommended by the Alcohol and Drug Committee, as a licensed clinical alcohol and drug counselor.

“Orientation” means describing to a client the general nature and goals of the drug and alcohol treatment services offered.

“Recordkeeping” means charting the results of an assessment and treatment plan, writing reports, progress notes, discharge summaries and other client-related data.

“Referral” means identifying the needs of a client that cannot be met by the drug and alcohol counselor or agency and/or assisting the client to utilize the support systems and community resources available.

“Screening” means the process by which a client is determined to be both appropriate and eligible for drug and alcohol treatment services.

“Self-help group” means a voluntary group of persons who offer peer support to each other in recovering from an alcohol and drug addiction, including, but not limited to, groups such as Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Adult Children of Alcoholics (ACOA), Alanon and Naranon.

“Significant other” means an individual who is not related by blood or marriage who can influence the client in a way that can impact the therapeutic intervention, success of recovery or treatment of the client. Examples include, but are not limited to, employers, teachers, friends, coworkers, or probation/parole officers.

“Sponsor” means a mentor in a 12-step, self-help group, who is in a nonclinical, unpaid relationship with other 12-step members.

“Treatment planning” means the process by which a counselor and a client identify and rank problems which require resolution; establish agreed upon immediate and long-term goals, including time frames; and decide upon a treatment process and the resources to be utilized.

### **13:34C–1.3 Office of the Alcohol and Drug Counselor Committee**

The office of the Committee shall be maintained at 124 Halsey Street, Newark, New Jersey. The mailing address of the Alcohol and Drug Counselor Committee is PO Box 45040, Newark, New Jersey 07101.

### **13:34C–1.4 Notification of address; service of process**

- (a) A licensee or certificate holder shall file and maintain with the Committee an address of record, as defined in N.J.A.C. 13:34C–1.2. A licensee or certificate holder shall notify the Committee in writing of any change from the address registered with the Committee and shown on the most recently issued renewal certificate. Such notice shall be sent to the Committee by certified mail, return receipt requested, no later than 30 days following the change of address. Failure to notify the Committee of any change of address may result in disciplinary action in accordance with N.J.S.A. 45:1–21(h).
- (b) Service, by mail or any other delivery, of an administrative complaint or other process initiated by the Board, Committee, the Attorney General, or the Division of Consumer Affairs at the address of the licensee or certificate holder which is on file with the Committee shall be deemed adequate notice for the purposes of N.J.A.C. 1:1–7.1 and the commencement of any disciplinary proceeding.

### **13:34C–1.5 License or certification renewal; active/inactive**

- (a) Licenses and certifications shall be renewed biennially upon a form provided by the Committee. Each applicant shall attest that the continuing education requirements have been completed during the prior 24 month renewal period.

- (b) The Committee shall send a notice of renewal to each of its licensees or certificate holders, as applicable, at least 60 days prior to the expiration of the license or certificate. If the notice to renew is not sent at least 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew.
- (c) Every holder of a license or certificate, issued or renewed by the Board, who seeks renewal shall submit a renewal application and pay a renewal fee prior to the date of expiration of the license or certificate. If the holder does not renew the license or certificate prior to its expiration date, the holder may renew it within 30 days of its expiration date by submitting a renewal application and paying a renewal fee and a late fee. Any license or certification not renewed within 30 days of its expiration date shall be suspended without a hearing.
- (d) Any individual who continues to practice with an expired license or certification after 30 days following its expiration date shall be deemed to be engaged in the unlicensed practice of alcohol and drug counseling, even if no notice of suspension has been provided to the individual.
- (e) Renewal applications for all licenses or certificates shall provide the applicant with the option of either active or inactive renewal. A renewal applicant electing to renew as inactive shall not engage in alcohol and drug counseling within the State.
- (f) An applicant who selects the inactive renewal option shall remain on inactive status for the entire renewal period unless, upon application to the Board, the Board permits the inactive applicant to return to active status provided such applicant presents satisfactory proof that the applicant has maintained proficiency by completing the continuing education hours required for the renewal of an active license or certification. Applicants shall complete the number of continuing education hours required for each renewal period he or she was in inactive status.

### **13:34C–1.6 Reinstatement**

Pursuant to the Uniform Enforcement Act, N.J.S.A. 45:1–1 et seq., the Board may reinstate the license or certification of an applicant whose license or certificate has been suspended for failure to renew provided that the applicant otherwise qualifies for licensure or certification.

### **13:34C–1.7 Licensee to display notice or give notice; licensee to display license**

- (a) All licensees, conducting independent practice, shall ensure that the following notice is either prominently displayed in a waiting room or other area where it will be visible to the licensee's clients, or provided to the licensee's clients in writing:

“Alcohol and drug counselors are licensed by the Board of Marriage and Family Therapy Examiners, Alcohol and Drug Counselor Committee, an agency of the Division of Consumer Affairs. Any member of the consuming public may notify the Committee of any complaint relative to the practice conducted by an alcohol and drug counselor. The Committee's address is:

Division of Consumer Affairs, Alcohol and Drug Counselors Committee,

PO Box 45040, 124 Halsey Street, Newark, New Jersey 07101.”

- (b) All licensees, conducting independent practice, shall conspicuously display their license issued by the Board in their primary office.

### **13:34C–1.8 Suspension, revocation or refusal of licensure or certification**

- (a) If an applicant or holder of a license or certificate affirmatively demonstrates rehabilitation by clear and convincing evidence, the Board, upon recommendation by the Committee, shall admit the applicant to an examination and shall issue a license or certificate to the holder provided the other requirements of licensure or certification have been met. In determining whether a person has affirmatively demonstrated rehabilitation, the Committee shall consider the following factors:
1. The nature and responsibility of the position which the convicted person would hold or has held, as the case may be;
  2. The nature and seriousness of the offense;
  3. The circumstances under which the offense occurred;
  4. The date of the offense;
  5. The age of the person when the offense was committed;
  6. Whether the offense was an isolated or repeated incident;
  7. Any social conditions which may have contributed to the offense; and
  8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, drug free periods, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have supervised the person, or restitution or any fines being paid.
- (b) In accordance with N.J.S.A. 45:1–21, the Committee may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate or license issued by the Board upon proof that the applicant or holder of such certificate or license:
1. Has obtained a certificate, license or authorization to sit for an examination, as the case may be, through fraud, deception, or misrepresentation;
  2. Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;
  3. Has engaged in gross negligence, gross malpractice or gross incompetence which damaged or endangered the life, health, welfare, safety or property or any person;
  4. Has engaged in repeated acts of negligence, malpractice or incompetence;
  5. Has engaged in professional or occupational misconduct including, but not limited to, the following:
    - i. Offering to perform or performing services that are unwarranted by education, training, or experience;
    - ii. Diagnosing or treating non-substance related mental illness or mental disease;
    - iii. Reporting distorted, erroneous or misleading alcohol or drug abuse counseling information;
    - iv. Taking credit for work not personally performed;
    - v. Acting as a sponsor of any client, patient, supervisee, or student of the alcohol and drug abuse counselor who participates in a self-help group;



- vi. Engaging in a dual relationship, which could result in a conflict of boundaries and/or exercising undue influence over any client or patient of the alcohol and drug abuse counselor;
  - vii. Treating any client, patient, student, supervisee or colleague in an abusive manner;
  - viii. Discriminating against any client, patient, student, supervisee or colleague on the basis of color, race, gender, religion, national origin, ancestry, age, disability or sexual orientation;
  - ix. Failing to inform any client or patient of any financial benefits that might accrue to the alcohol and drug abuse counselor from referral to any other service or from the use of any tests, books or apparatus or failing to offer any meaningful choice of other treatment providers, where available;
  - x. Directly or indirectly offering, giving, soliciting, receiving, or agreeing to receive any fee or other consideration of more than nominal (negligible) value to or from a third party for the referral of a client or patient or in connection with the performance of professional services;
  - xi. Permitting any person to share in the fees for professional services, other than a partner, employee, an associate in a professional firm or a consultant authorized to practice the same profession or in a closely allied profession;
  - xii. Failing to terminate the alcohol and drug abuse counseling relationship when it is apparent that the relationship no longer serves the needs of the client or patient;
  - xiii. Providing counseling services while using alcoholic beverages or illegally using controlled dangerous substances; or xiv. Altering any records in a manner not authorized pursuant to N.J.A.C. 13:34C–4.1(e);
6. Has been convicted of, or engaged in acts constituting, any crime or offense involving moral turpitude or relating adversely to alcohol and drug counseling. For the purposes of this subsection a judgment of conviction or a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;
  7. Has had the authority to engage in alcohol and drug counseling revoked or suspended by any other State agency or authority for reasons consistent with this section;
  8. Has violated or failed to comply with the provisions of any act or regulation administered by the Committee;
  9. Is incapable for medical or any other good cause, of discharging the functions of a licensee or certificate holder in a manner consistent with the public's health, safety and welfare;
  10. Has violated any provision of P.L. 1983, c.320 (C.17:33A–1 et seq.) or any insurance fraud prevention law or act of another jurisdiction or has been adjudicated, in civil or administrative proceedings, of a violation of P.L. 1983, c.320 (C.17:33A–1 et seq.) or has been subject to a final order, entered in civil or administrative proceedings, that imposed civil penalties under that act against the applicant or holder;
  11. Is presently engaged in drug or alcohol use that is likely to impair the ability to practice the profession or occupation with reasonable skill and safety. For purposes of this subsection, the term “presently” means at this time or any time within the previous 365 days;

12. Has permitted an unlicensed person or entity to perform an act for which a license or certification is required by the Committee, or aided and abetted an unlicensed person or entity in performing such an act; or
13. Advertised fraudulently in any manner.

### **13:34C–1.9 Licensure or certification of persons licensed or certified in another jurisdiction**

The Board, upon recommendation by the Committee, may grant a license or certification to any person who at the time of application is licensed or certified by a governmental agency or other comparable recognized certifying authority located in another state, territory or jurisdiction, if in the opinion of the Committee, the requirements of that licensure or certification are substantially similar, at the time of initial certification or licensure, to requirements of the Act and this chapter.

### **13:34C–1.10 Fee schedule**

(a) The Committee shall charge the following fees:

1. Application fee ..... \$75.00
2. Initial license fee
  - i. If paid during the first year of a biennial renewal period. .... \$250.00
  - ii. If paid during the second year of a biennial renewal period. .... \$125.00
3. Initial certification fee
  - i. If paid during the first year of a biennial renewal period. .... \$180.00
  - ii. If paid during the second year of a biennial renewal period. .... \$90.00
4. Certification of licensure or certification. .... \$25.00
5. License renewal fee, biennial. .... \$250.00
6. Certification renewal fee, biennial. .... \$180.00
7. Reinstatement fee. .... \$125.00
8. Late renewal fee. .... \$50.00
9. Replacement wall certificate. .... \$40.00
10. Duplicate license or certification fee. .... \$25.00

## **SUBCHAPTER 2. APPLICATION PROCEDURE; APPLICANT QUALIFICATIONS**

### **13:34C–2.1 Licensure or certification of practicing counselors: “grandfathering”**

- (a) The 730–day period provided for in N.J.S.A. 45:2D–16 shall begin on March 15, 2004 and end on March 15, 2006.
- (b) Upon application to the Board on the form and in the manner prescribed by the Committee, any person certified in New Jersey by the APCBNJ as an alcoholism counselor on January 9, 1998 who provides documentation to the Board that the applicant has successfully completed 30 classroom hours, including formal classroom education, workshops, seminars, institutes, and in-service

training, in drug education may be certified as an alcohol and drug counselor without meeting the requirements set forth in N.J.A.C. 13:34C–2.3.

- (c) Upon application to the Board on the form and in the manner prescribed by the Committee, any person certified in New Jersey by the APCBNJ as a drug counselor on January 9, 1998 who provides documentation to the Board that the applicant has successfully completed 50 classroom hours, including formal classroom education, workshops, seminars, institutes, and in-service training, in alcohol education may be certified as an alcohol and drug counselor without meeting the requirements set forth in N.J.A.C. 13:34C–2.3.
- (d) Upon application to the Board on the form and in the manner prescribed by the Committee, any person who has practiced, as evidenced by utilizing the 12–core functions and/or performing clinical supervision, as an alcohol and drug counselor for at least five years preceding January 9, 1998 and is certified in New Jersey by the APCBNJ as an alcohol and drug counselor on January 9, 1998 may be licensed as a clinical alcohol and drug counselor without meeting the requirements set forth in N.J.A.C. 13:34C–2.2. The 12 core functions include: screening, intake, orientation, assessment, treatment planning, counseling—individual, group and family, case management, crisis intervention, client education, referral, consultation, and recordkeeping. For purposes of this section, five years equals 7,500 hours. Of these 7,500 hours, at least 3,000 hours shall be accrued within the five years immediately preceding the enactment date of the Act, that is, January 9, 1998.

### **13:34C–2.2 Application procedure: licensed clinical alcohol and drug counselor**

- (a) An applicant for licensure as a clinical alcohol and drug counselor shall submit the following to the Committee:
  - 1. A completed application form, which contains information concerning the applicant’s educational and experiential background;
  - 2. The non-refundable application fee set forth in N.J.A.C. 13:34C–1.10;
  - 3. An official transcript(s)/certificate(s) indicating that the applicant has satisfied the educational requirements as set forth in (b) below and N.J.A.C. 13:34C–2.3(b)1 and 4;
  - 4. A supervisor’s certification indicating that the applicant has met the supervision requirements for licensure as set forth in N.J.A.C. 13:34C–6; and
  - 5. The original, current certificate of certification as an alcohol and drug counselor issued by the APCBNJ, if applicable.
- (b) An applicant shall furnish evidence that the applicant has:
  - 1. Received a master’s degree in counseling from an accredited institution of higher education, as defined in N.J.A.C. 13:34C–1.2, or received a master’s degree in an addictions or counseling related area which shall include a minimum of 18 graduate semester hours in counseling from an accredited institution of higher education. The required 18 graduate semester hours for the master’s degree in an addictions or counseling related area may include pre and post master’s graduate semester hours and must be distributed among the following areas:
    - i. Counseling theory and practice, which includes the study of basic theories, principles and techniques of counseling and their application to professional counseling settings;
    - ii. The helping relationship, which includes studies that provide a broad understanding of philosophic bases of helping processes, basic and advanced helping skills, consultation

- theories and their applications, client and helper self-understanding and self-development, and facilitation or consultee change;
- iii. Human growth and development and maladaptive behavior, which includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal behavior, personality theory, life-span theory, and learning theory within cultural contexts;
  - iv. Lifestyle and career development, which include studies that provide a broad understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance and education, lifestyle and career decision-making, career development program planning, resources, and career option identification;
  - v. Group dynamics, processes, counseling and consulting, which include studies that provide a broad understanding of group development dynamics, group counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches;
  - vi. Assessment of individuals, which includes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to assessment, data and information gathering methods, validity and reliability, psychometric statistics, factors that influence assessment, use of assessment results in helping process and the specific ability to administer and interpret tests and inventories to assess abilities, interests, and identify career options;
  - vii. Social and cultural foundations, which include studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, multicultural and pluralistic trends, differing lifestyles, and major societal concerns including stress, personal abuse, substance abuse, discrimination and methods of alleviating these concerns;
  - viii. Research and evaluation, which include studies that provide a broad understanding of types of research, basic statistics, research report development, research implementation, program evaluation, needs assessment, publication of research information and ethical and legal considerations;
  - ix. The counseling profession, which includes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards and professional credentialing; and
  - x. Pharmacology and physiology, which includes topics related to physiology of alcohol/drug use, abuse, dependency and addiction; neurophysiology of chemical use; psychopharmacology; therapeutic and appropriate use of pharmaceutical drugs; physical health and the use/abuse of drugs; psychiatric medications in the treatment of mental illness and dual diagnoses; appropriate use of prescribed medications for recovering chemically dependent clients/patients; treatment of chronic pain and clinical testing of body fluids and hair; and 2. Successfully completed all the requirements to be a certified alcohol and drug counselor pursuant to N.J.A.C. 13:34C–2.3(b)2 and 3 and 5 through 7 and N.J.S.A. 42:2D–5.

- (c) An application shall be deemed abandoned and closed if:
  1. The application has not been completed by the applicant within 12 months after it was received by the Committee; or
  2. The applicant fails to sit for or pass the written and/or oral sections of the examination within 12 months or any 12-month period thereafter upon written notification of eligibility to take the examination.
- (d) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application and shall comply with the requirements of (a) and (b) above.
- (e) After the third attempt or thereafter to pass the written and/or oral sections of the examination, the applicant may not reapply a fourth time or any time thereafter without having first successfully completed and passed a course(s) in the subject matter(s) in which the examination has demonstrated the applicant's deficiencies.

### **13:34C–2.3 Application procedure: certified alcohol and drug counselor**

- (a) An applicant for certification as a certified alcohol and drug counselor shall submit the following to the Committee:
  1. A completed application form, which contains information concerning the applicant's educational and experiential background;
  2. The non-refundable application fee set forth in N.J.A.C. 13:34C–1.10;
  3. An official transcript(s)/certificate(s) indicating that the applicant has satisfied the educational requirements set forth in (b)1 and 4 below;
  4. The supervisor's certification indicating that the applicant has met the supervision requirements for certification as set forth in N.J.A.C. 13:34C–6; and
  5. The original, current certificate of certification as an alcohol and drug counselor issued by the APCBNJ, if applicable.
- (b) An applicant shall furnish evidence that the applicant has:
  1. Received a bachelor's degree or an associate's degree or a higher school diploma or a certificate of high school equivalency;
  2. Completed 300 hours of supervised practical training in alcohol and drug counseling distributed among all of the following 12 core functions: screening, intake, orientation, assessment, treatment planning, counseling—individual, group and family, case management, crisis intervention, client education, referral, consultation and recordkeeping;
  3. Completed two years of supervised work experience within five consecutive years immediately preceding the date of submission of the application. The two years of supervised work experience may be paid or voluntary time working directly with alcohol or other drug clients. Paid or voluntary time shall be directly related to the 12-core functions as set forth at (b)2 above;
    - i. A one year full-time equivalent shall be 1,500 hours over a 50-week period. Any hours over the required 1,500 hours per year may not be carried over into the succeeding year. The practical training required by (b)2 above may be part of the work experience set forth in this paragraph and may be completed under more than one agency or supervisor;

- ii. The work experience requirement may be satisfied by work performed on a part-time basis, so long as the two year experience requirement is satisfied by completion of at least 3,000 hours within five consecutive years immediately preceding the date of submission of the application;
  - iii. Formal education, except for supervised practical training; continuing education courses, workshops, seminars or unsupervised work experience may not be substituted for the required work experience;
- 4. Completed 270 hours of alcohol and drug education, approved by member boards of the International Certification Reciprocity Consortium of Alcohol and Other Drug Abuse, Inc. (ICRC), the NADAAC, the Association for Addiction Professionals or a regionally accredited college or university, which shall be related to the knowledge and skill associated with the functions of an alcohol and drug counselor, including formal classroom education, workshops, seminars, institutes, in-service training or a maximum of 54 course hours in distance learning programs as follows:
  - i. Fifty-four course hours of assessment, with a minimum of six hours each of the topics and distributed among all of the following:
    - (1) Initial interviewing process;
    - (2) Biopsychosocial assessment;
    - (3) Differential diagnosis;
    - (4) Diagnostic summaries and compulsive gambling; and
    - (5) Psychopharmacology/physiology of addiction;
  - ii. Fifty-four course hours of counseling, with a minimum of six hours in each of the topics and distributed among all of the following:
    - (1) Introduction to counseling;
    - (2) Introduction to techniques and approaches;
    - (3) Crisis intervention;
    - (4) Individual counseling focused on addiction;
    - (5) Group counseling; and
    - (6) Family counseling;
  - iii. Fifty-four course hours of case management, with a minimum of six hours in each of the topics and distributed among all of the following:
    - (1) Community resources;
    - (2) Consultation;
    - (3) Documentation; and
    - (4) HIV positive resources;
  - iv. Fifty-four course hours of client education, with a minimum of six hours in each of the topics and distributed among all of the following:
    - (1) Addiction recovery;
    - (2) Psychological client education;
    - (3) Biochemical/medical client education;

- (4) Sociocultural client education;
  - (5) Addiction recovery and psychological family education;
  - (6) Biomedical and sociocultural family education; and
  - (7) Community and professional education; and
    - v. Fifty-four course hours of professional responsibility, with a minimum of six hours in each of the topics and distributed among all of the following:
      - (1) Ethical standards;
      - (2) Legal aspects;
      - (3) Cultural competency;
      - (4) Professional growth;
      - (5) Personal growth;
      - (6) Dimensions of recovery;
      - (7) Supervision;
      - (8) Consultation; and
      - (9) Community involvement;
  - 5. Attended 30 alcohol and drug abuse self-help group meetings of which a minimum of five meetings shall be in Alcoholics Anonymous; a minimum of five meetings shall be in Narcotics Anonymous; and a minimum of five meetings shall be in Alanon;
  - 6. Successfully completed a written examination developed and prepared by the ICRC; and
  - 7. Successfully completed an oral examination developed and prepared by the ICRC, on the applicant's written case presentation.
- (c) An application shall be deemed abandoned and closed if:
- 1. The application has not been completed by the applicant within 12 months after it was received by the Committee; or
  - 2. The applicant fails to sit for or pass the written and/or oral sections of the examination within 12 months or any 12-month period thereafter upon written notification of eligibility to take the examination.
- (d) An application submitted subsequent to the abandonment of a prior application shall be treated as a new application and shall comply with the requirements of (a) and (b) above.
- (e) After the third attempt or thereafter to pass the written and/or oral sections of the examination, the applicant may not reapply a fourth time or any time thereafter without having first successfully completed and passed a course(s) in the subject matter(s) in which the examination has demonstrated the applicant's deficiencies.

#### **13:34C–2.4 Licensure: health care provider licensed by the State**

- (a) In accordance with N.J.S.A. 45:2D–4(b), the Committee shall recommend that the Board issue a license as a licensed clinical alcohol and drug counselor to any health care provider licensed by the State of New Jersey, who is in good standing and diagnoses and/or treats drug or alcohol related disorders within the health care provider's scope of practice.

- (b) The health care provider shall also demonstrate to the Committee, which will then recommend to the Board, that the health care provider has equivalent education as required pursuant to N.J.A.C. 13:34C-2.2(b) and training and comparable years of experience as required pursuant to N.J.A.C. 13:34C-2.3(b)2 through 5, except that the health care provider shall be exempt from taking the oral and written examinations as required pursuant to N.J.A.C. 13:34C-2.3(b)6 and 7.

### **13:34C-2.5 Qualification review process: licensure and certification**

- (a) The Committee shall review the qualifications of each person who applies for licensure or certification as an alcohol and drug counselor.
- (b) No applicant shall be licensed or certified by the Board unless a majority of the full Committee first determines that the applicant has met the education and experience requirements of N.J.A.C. 13:34C-2.3(b)1 through 5 and successfully completed the written and oral examinations required pursuant to N.J.A.C. 13:34C-2.3(b)6 and 7. Exempted from this subsection are those applicants who qualify as specified pursuant to N.J.A.C. 13:34C-1.9, 2.1 and 2.4.
- (c) An applicant who is determined to be qualified and is recommended for licensure or certification by the Committee shall be considered for licensure or certification by the Board, with the final decision to be made by the Board. The Board may review the action taken by the Committee with respect to the Committee's evaluation and examination of the applicant for licensure as a licensed clinical alcohol and drug counselor or for certification as a certified alcohol and drug counselor.
- (d) The Board may reverse, modify or reject any determination of the Committee by an affirmative vote of a majority of the Board.

### **13:34C-2.6 Exceptions to licensure and certification**

- (a) The licensure and certification rules in this subchapter shall not apply to:
1. A person engaging in or offering alcohol and drug addiction services such as self-help, sponsorship through Alcoholics Anonymous and Narcotics Anonymous groups or other uncompensated alcohol and drug addiction counseling assistance;
  2. The activities and services of a designated employee or other agent of a private employer who has been designated to be involved in the evaluation or referral for counseling of employees of the private employer, or an employee or other agent of a recognized academic institution, a Federal, State, county or local government institution, agency or facility, or a school district, if the individual is performing these activities of evaluation or referral for counseling only of employees and solely within the company or agency, as the case may be, or under the jurisdiction of that company or agency and if a license granted under this act is not a requirement for employment;
  3. The activities and services of an imam, rabbi, priest, minister, Christian Science practitioner or clergy of any religious denomination or sect, when engaging in activities, which are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally recognizable church, denomination, or sect, and when the person rendering services remains accountable to the established authority thereof; or



4. A person doing work of an alcohol or drug counseling nature, or advertising those services, when acting within the scope of the person's profession or occupation and doing work consistent with the person's training, including physicians, clinical social workers, professional counselors, marriage and family therapists, psychologists, nurses or any other profession or occupation licensed by the State, or students within accredited programs of these professions, if the person does not hold oneself out to the public as possessing a license or certification issued pursuant to the Act or this chapter.

### **SUBCHAPTER 3. GENERAL OBLIGATIONS**

#### **13:34C–3.1 Standards of practice; scope of practice**

- (a) All licensed clinical alcohol and drug counselors and all certified alcohol and drug counselors who are licensed or certified under this chapter shall comply with the standards of practice contained in this section when engaging in alcohol and drug counseling services.
- (b) The scope of practice of a certified alcohol and drug counselor includes, but is not limited to:
  1. The 12–core functions: screening, intake, orientation, assessment, treatment planning, counseling–individual, group and family, case management, crisis intervention, client education, referral, consultation, and recordkeeping; and
  2. A certified alcohol and drug counselor shall practice under the supervision of a licensed clinical alcohol and drug counselor or other clinical supervisor as deemed appropriate by the Committee pursuant to N.J.A.C. 13:34C–6.3 and 6.4.
- (c) The scope of practice of a licensed clinical alcohol and drug counselor includes, but is not limited to:
  1. The 12 core functions: screening, intake, orientation, assessment, treatment planning, counseling–individual, group and family, case management, crisis intervention, client education, referral, consultation and recordkeeping;
  2. Performance of clinical supervision pursuant to N.J.A.C. 13:34C–6.2, 6.3 and 6.4 for alcohol and drug counselor trainees and certified alcohol and drug counselors; and
  3. Diagnosis of substance-related disorders as described in the current edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association.

#### **13:34C–3.2 Professional conduct**

- (a) No person shall engage in the practice of alcohol and drug counseling as a licensed clinical alcohol and drug counselor unless licensed pursuant to the Act and this chapter.
- (b) No person shall engage in the practice of alcohol and drug counseling as a certified alcohol and drug counselor unless certified pursuant to the Act and this chapter.
- (c) No person shall present, call or represent himself or herself as a licensed clinical alcohol and drug counselor unless licensed pursuant to the Act and this chapter.
- (d) No person shall present, call or represent himself or herself as a certified alcohol and drug counselor unless certified pursuant to the Act and this chapter.
- (e) No person shall assume, represent himself or herself as, or use the title or designation such as “alcoholism counselor,” “alcohol counselor,” “drug counselor,” “alcohol and drug counselor,”

“alcoholism and drug counselor,” “licensed clinical alcohol and drug counselor,” “certified alcohol and drug counselor,” “substance abuse counselor,” “chemical dependency counselor,” “addictions counselor,” “certified addictions counselor,” “certified addictions specialist” or “chemical dependency supervisor,” or any of the abbreviations for the above titles, unless licensed or certified pursuant to the Act and this chapter, and unless the title or designation corresponds to the license or certification held by the person pursuant to the Act and this chapter.

- (f) No person shall engage in the independent practice of alcohol and drug counseling for a fee unless the person is licensed as a licensed clinical alcohol and drug counselor or the person is a certified alcohol and drug counselor practicing under the supervision of a licensed clinical alcohol and drug counselor or other approved clinical supervisor approved pursuant to N.J.A.C. 13:34C–6.3.
- (g) All licensees and certificate holders are responsible for the conduct of their employees, pursuant to N.J.S.A. 45:2D–11.

### **13:34C–3.3 Sexual misconduct and harassment**

- (a) The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

“Client” means any person who is the recipient of a professional service rendered by an alcohol and drug counselor for purposes of diagnosis, treatment or a consultation relating to treatment. “Client,” for purposes of this section, also means a person who is the subject of professional examination or assessment or clinical supervision even if the purpose of that examination or assessment or clinical supervision is unrelated to treatment.

“Client-counselor relationship” means the association between an alcohol and drug counselor and a client wherein the counselor owes a continuing duty to the client to be available to render alcohol and drug counseling services consistent with his or her training and experience.

“Harassment” means one egregious act or repeated comments, contact, or gestures which are based upon the following and which have the purpose or effect of intimidating or offending the individual based upon his or her race, religion, color, gender, national origin, marital status, sexual orientation, physical or mental disability.

“Sexual contact” means the knowing touching of a person’s body directly or through clothing, where the circumstances surrounding the touching would be construed by a reasonable person to be motivated by the licensee’s or certificate holder’s own prurient interest or for sexual arousal or gratification. “Sexual contact” includes, but is not limited to, the imposition of the licensee’s or certificate holder’s body upon a part of the client’s body, sexual penetration, or the insertion or imposition of any object or any part of a licensee or certificate holder or client’s body into or near the genital, anal or other opening of the other person’s body.

“Sexual harassment” means solicitation of any sexual act, physical advances, or verbal or non-verbal conduct that is sexual in nature, and which occurs in connection with a licensee’s or certificate holder’s activities or role as a provider of alcohol and drug counseling services that either: is unwelcome, offensive to a reasonable person, or creates a hostile workplace environment, and the licensee or certificate holder knows, should know, or is told this; or is sufficiently severe or intense to be abusive to a reasonable person in that context. “Sexual harassment” may consist of a single extreme or severe act or of multiple acts and may include, but is not limited to, conduct of a licensee or certificate holder with a client, co-worker, employee, student, or supervisee, whether or not such individual is in a subordinate position to the licensee. “Sexual harassment” may include conduct of a non-sexual nature if it is based upon the sex of the individual.

- (b) A licensee or certificate holder shall not engage in sexual contact with a client with whom he or she has a client-counselor relationship.
- (c) A licensee or certificate holder shall not seek or solicit sexual contact with a client with whom he or she has a current client-counselor relationship, a former client or a former student to whom any alcohol and drug counseling services were rendered in the immediately preceding 24 months, or a current student, supervisee, supervisor, or research participant.
  - 1. The 24-month rule shall not apply and the prohibition shall extend indefinitely in circumstances where the former client is or should be recognized by the licensee or certificate holder as clearly vulnerable by reason of emotional or cognitive disorder or exploitative influence by the licensee or certificate holder.
- (d) A licensee or certificate holder shall not seek or solicit sexual contact with any person in exchange for professional services.
- (e) A licensee or certificate holder shall not accept as a client an individual who, within the immediately preceding 24 months, was the licensee's or certificate holder's sexual partner.
- (f) A licensee or certificate holder shall not engage in any discussion of an intimate sexual nature with a client that serves the licensee's or certificate holder's prurient interests or is for the sexual arousal or the sexual gratification of the licensee or certificate holder or client, or constitutes sexual abuse of the client.
- (g) A licensee or certificate holder shall not condone or engage in any form of harassment in a professional setting including, but not limited to, an office, hospital or health care facility or outside the professional setting.
- (h) A licensee or certificate holder shall not engage in any other activity such as, but not limited to, voyeurism or exposure of the genitalia of the licensee or certificate holder which would lead a reasonable person to believe that the activity serves the licensee's or certificate holder's personal- prurient interests or is for the sexual arousal or the sexual gratification of the licensee or certificate holder or client, or constitutes sexual abuse of the client.
- (i) Violation of any of the prohibitions or directives set forth at (b) through (h) above shall be deemed to constitute gross malpractice pursuant to N.J.S.A. 45:1-21(c) or professional misconduct pursuant to N.J.S.A. 45:1-21(e) or both.
- (j) It shall not be a defense to any action under this section that:
  - 1. The client solicited or consented to sexual contact with the licensee or certificate holder; or
  - 2. The licensee or certificate holder was in love with or had affection for the client.
- (k) The prohibitions of this section shall also apply to any relationship between a licensee or certificate holder and the client of any other individual within the same professional setting, facility or location.

### **13:34C-3.4 Duty to report**

- (a) A licensee or certificate holder shall notify the Committee of misconduct of another alcohol or drug counselor which the licensee or certificate holder has reason to believe has not been disclosed to the Committee. Such misconduct includes specific acts or omissions or the fact that a counselor has:
  - 1. Had any license, certificate, permit, registration or other certificate granted by any jurisdiction limited, conditioned, qualified, restricted, suspended, revoked or not issued or renewed or voluntarily surrendered;

2. Been subject to any other disciplinary action by a licensing or certifying authority or professional association;
  3. Been demoted, terminated or suspended from the person's employment for some form of misfeasance, malfeasance or nonfeasance;
  4. Practiced or taught alcohol or drug counseling in violation of the laws or regulations regulating that profession; or
  5. Engaged in any prohibited act listed in N.J.A.C. 13:34C–1.8(b) and 3.2.
- (b) A licensee or certificate holder shall notify the Committee of one's own misconduct which the licensee or certificate holder has reason to believe has not been disclosed to the Committee. Such misconduct includes specific acts or omissions or the fact that a counselor has:
1. Had any license, certificate, permit, registration or other certificate granted by any jurisdiction limited, conditioned, qualified, restricted, suspended, revoked or not issued or renewed or voluntarily surrendered;
  2. Been subject to any other disciplinary action by a licensing or certifying authority or professional association;
  3. Been demoted, terminated or suspended from the person's employment for some form of misfeasance, malfeasance or nonfeasance;
  4. Practiced or taught alcohol or drug counseling in violation of the laws or regulations regulating that profession; or
  5. Engaged in any prohibited act listed in N.J.A.C. 13:34C–1.8(b) and 3.2.
- (c) A licensee or certificate holder shall, within 30 days of receiving a notice of disciplinary action taken against the licensee or the certificate holder in any other state, territory or jurisdiction, report to the Committee in writing receipt of such notification and provide a copy of the notification and the underlying documentation of the disciplinary action.

#### **SUBCHAPTER 4. CLIENT RECORDS; CONFIDENTIALITY**

##### **13:34C–4.1 Preparation and maintenance of client records**

- (a) A licensee or certificate holder shall prepare a permanent client record for each client which accurately reflects the client contact with the licensee whether in an office, hospital, agency or other treatment, evaluation or consultation setting.
- (b) A licensee or certificate holder shall make and sign entries in the client record contemporaneously with the services provided. A licensee or certificate holder may dictate an entry for later transcription, provided that the transcription is dated and identified as "preliminary" until the licensee or certificate holder reviews the transcription and finalizes the entry in the client record.
- (c) The licensee or certificate holder shall include in the client record material pertinent to the nature and extent of the professional interaction, as applicable:
  1. The client name, address and telephone number;
  2. The client complaint on intake;
  3. Medical history recognized as of potential significance;

4. Substance abuse history;
  5. Past and current medications;
  6. Bio/psycho/social history;
  7. Any finding or interpretation of standardized tests and/or instruments administered;
  8. Current functional impairments and rating levels thereof;
  9. A diagnostic impression;
  10. A treatment plan focused on the specific needs of the individual client;
  11. Contemporaneous and dated progress or session notes specific to the client's participation, including on-going assessment, specific components of treatment, evaluation or consultation;
  12. Dates of all treatment, evaluation or consultation sessions;
  13. The location of treatment, evaluation or consultation;
  14. A prognosis;
  15. The client identity on each page;
  16. Fees charged and paid unless a separate financial record is kept;
  17. The identity of each provider of treatment, evaluation or consultation (and supervisor, if any);
  18. If services are rendered by a counselor intern or a certified alcohol and drug counselor, a written disclosure form signed by the client;
  19. Records and reports provided by other professionals;
  20. Information regarding referrals to other professionals or health care providers;
  21. Appropriate consent and disclosure forms required by law;
  22. Any other form required by regulation, accreditation or funding agency;
  23. Discharge summary and after care plan focused on the specific needs of the individual client; and
  24. A record of any treatment, drug, or service offered by the licensee and refused by the patient.
- (d) A licensee or certificate holder may make corrections or additions to an existing record provided that each change is clearly identified as such, dated and initialed by the licensee or certificate holder.
  - (e) The licensee or certificate holder shall establish and maintain a reasonable procedure to protect such records from access by unauthorized persons.
  - (f) The licensee or certificate holder shall retain the permanent client record for at least seven years from the date of last entry, unless otherwise provided by law.
  - (g) The licensee or certificate holder shall establish reasonable procedures for maintaining the confidentiality of client records in the event of the licensee's or certificate holder's relocation, retirement, termination from practice, death, or separation from a group practice, and shall establish reasonable procedures to assure the preservation of client records which shall include at a minimum:

1. Establishment of a procedure by which patients can obtain treatment records or acquiesce in the transfer of those records to another licensee or health care professional who is assuming the responsibilities of that practice;
  2. Publication of a notice of the cessation and the established procedure for the retrieval of records in a newspaper of general circulation in the geographic location of the licensee's or certificate holder's practice, at least once each month for the first three months after the cessation; and
  3. Making reasonable efforts to directly notify any patient treated during the six months preceding the cessation, providing information concerning the established procedure for retrieval of records.
- (h) Subsections (e) and (g) above shall not apply to a licensee or certificate holder employed in an agency setting who does not, by agency policy, have control over client records.
- (i) Licensees or certificate holders practicing in a licensed substance abuse treatment facility or in an exempt setting as defined in N.J.A.C. 13:34C-2.6, shall not be required to comply with this section if the facility's policies and/or procedures regarding preparation and maintenance of client records differ from this section.

#### **13:34C-4.2 Use of computer to prepare client records**

- (a) A licensee or certificate holder who prepares a client record maintained on a personal or other computer shall:
1. Maintain a hard copy, which shall include the required information set forth at N.J.A.C. 13:34C-4.1 and be produced at the time of data entry; and
  2. Maintain computerized records, including back-up copies, in compliance with the confidentiality requirements set forth at N.J.A.C. 13:34C-4.5, which are protected against unauthorized access both physical and through electronic means.
- (b) Licensees or certificate holders practicing in a licensed substance abuse treatment facility or in an exempt setting as defined in N.J.A.C. 13:34C-2.6 shall not be held to this section if the agency's policies and/or procedures regarding maintenance of client records differ from this section.

#### **13:34C-4.3 Access to copy of client record**

- (a) For purposes of this section, "authorized representative" means a person designated by the client, in accordance with the provisions of 42 CFR Part 2, incorporated herein by reference.
- (b) A licensee or certificate holder shall require any record request to be in writing. The licensee or certificate holder shall provide a copy of the client record and/or billing records, including reports relating to the client, no later than 30 days from receipt of a request from a client or duly authorized representative. Limitations on this requirement are set forth in (g) and (h) below.
- (c) Unless otherwise required by law, the licensee or certificate holder may elect to provide a summary of the record, as long as the summary adequately and accurately reflects the client's history and treatment.
- (d) A licensee or certificate holder may charge a reasonable fee for the preparation of a summary and reproduction of records, which shall be no greater than an amount reasonably calculated to recoup the costs of transcription or copying.
- (e) The licensee's or certificate holder's obligation hereunder to release information shall include the obligation to complete forms or reports required for third party reimbursement of client treatment

expenses. The licensee or certificate holder may charge reasonable fees for completion of reports other than health insurance claim forms, for which no fee may be charged pursuant to N.J.S.A. 45:1-12.

- (f) When a request is made for release of already completed reports to enable the client to receive ongoing care by another practitioner, or for use in judicial proceedings, the licensee or certificate holder shall not require prior payment for the professional services to which such reports relate as a condition for making such reports available. A licensee or certificate holder may, however, require advance payment for a report prepared for the licensee's or certificate holder's services as an expert witness.
- (g) A licensee or certificate holder may withhold information contained in the client record from a client or the client's parent or guardian if in the reasonable exercise of his or her professional judgment, the licensee believes release of such information would adversely affect the client's health or welfare. That record or the summary, with an accompanying explanation of the reasons for the original refusal, shall nevertheless be provided upon request of and directly to:
  - 1. The client's attorney;
  - 2. Another licensed health care professional; or
  - 3. The client's health insurance carrier.
- (h) A licensee or certificate holder shall not be required to release to a minor's parent or guardian records or information relating to the minor's sexually transmitted disease, termination of pregnancy or substance abuse.
- (i) A licensee or certificate holder shall only disclose information on HIV status contained in the client's record when consent is explicitly given by the client and such disclosure shall be in accordance with N.J.S.A. 26:5C-1 et seq. and any other applicable laws.

#### **13:34C-4.4 Access by a managed health care plan to information in client record**

- (a) With regard to a client whose treatment cost is covered by a wholly insured health insurance plan or a managed health care plan, a licensee or certificate holder shall make all required information available upon the request of the client or duly authorized representative with the client's consent.
- (b) A licensee or certificate holder whose client has explicitly waived the counselor-client confidentiality privilege established by N.J.S.A. 45:2D-11 may release requested information deemed professionally appropriate to a third-party payor.

#### **13:34C-4.5 Confidentiality**

- (a) Any communication between a licensee or a certificate holder and the person or persons counseled while performing counseling shall be confidential and its secrecy preserved.
- (b) All licensees or certificate holders shall comply with the provisions of 42 CFR Part 2.
- (c) The privilege set forth in (a) above shall not be subject to waiver except in the following circumstances:
  - 1. When disclosure is required by Federal or State law including, but not limited to, N.J.S.A. 2A:62A-16, 2A:62A-17 and 9:6-8.10; or
  - 2. When the licensee or certificate holder is a party defendant to a civil, criminal or disciplinary action arising from that counseling, in which case the waiver of the privilege shall be limited to that action.

- (d) Confidentiality is applicable to both adults and minors in conformance with Federal and State law.
- (e) A licensee or certificate holder shall secure a signed release from all persons who are referred to in family counseling notes prior to release of such notes to a third party.

## **SUBCHAPTER 5. CONTINUING EDUCATION**

### **13:34C–5.1 Continuing education requirements**

- (a) All licensed clinical alcohol and drug counselors shall complete 40 contact hours of continuing education for license renewal. The licensed clinical alcohol and drug counselor shall confirm on the renewal application that the applicant has completed all continuing education requirements pursuant to this subchapter during the biennial period preceding application for renewal.
- (b) All certified alcohol and drug counselors shall complete 60 contact hours of continuing education for certification renewal. The certified alcohol and drug counselor shall confirm on the renewal application that the applicant has completed all continuing education requirements pursuant to this subchapter during the biennial period preceding the application renewal.

### **13:34C–5.2 Continuing education contact hour requirements**

- (a) All licensees and certificate holders shall complete the minimum number of required contact hours of continuing education directly related to the profession of alcohol and drug counseling.
- (b) If the applicant initially obtains a license or certificate within the first year of the biennial period, the applicant shall complete 20 required contact hours of continuing education for the first renewal period.
- (c) If the applicant initially obtains a license or certificate within the second year of the biennial period, the applicant shall be exempt from completing continuing education requirements for the first renewal period.
- (d) All licensees and certificate holders shall complete at least six required contact hours of continuing education in legal standards related to the practice of alcohol and drug counseling during the initial biennial period. These six contact hours may be used towards the required continuing education contact hours.

### **13:34C–5.3 Approval of continuing education courses and/or programs**

- (a) The Committee may disallow any continuing education contact hours claimed for continuing education credit that are not relevant to the practice of alcohol and drug counseling in the State of New Jersey.
- (b) The following continuing education courses and programs shall be deemed automatically approved as long as the courses or programs fall within the content areas set forth in (d) below:
  - 1. Courses and programs approved by a regionally accredited institution of higher learning; the APCBNJ, or any other ICRC member board; NADAAC, the Association for Addiction Professionals; American Society on Addiction Medicine; National Board of Certified Counselors; the American Counseling Association; the American Psychological Association; the American Psychiatric Association; the National Association of Social Workers; the American Association for Marriage and Family Therapy; the National Council on Compulsive Gambling; and the American Compulsive Gambling Counselor Certification Board;
  - 2. Teaching a course or program in the related content areas set forth in (d) below;
  - 3. Completing coursework in the content areas set forth in (d) below;



4. Completing a distance learning course or program approved by one of the organizations listed in (b)1 above; and
  5. Being the primary author of a peer reviewed article published in a refereed professional journal or publication.
- (c) If a licensee or certificate holder attends a course or program that has not been approved by any of the organizations listed in (b)1 above, and the applicant seeks approval for continuing education, the applicant may submit the course or program to the Committee for approval prior to the biennial renewal date.
- (d) The following are acceptable course and program content areas for continuing education as long as the licensee or certificate holder distributes his or her contact hours among the following content areas:
1. Counseling theory and practice, which includes the study of basic theories, principles and techniques of counseling and their application to professional counseling settings;
  2. The helping relationship, which includes studies that provide a broad understanding of philosophic bases of helping processes, basic and advanced helping skills, consultation theories and their applications, client and helper self-understanding and self-development, and facilitation or consultee change;
  3. Human growth and development and maladaptive behavior, which includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels, normal and abnormal behavior, personality theory, life-span theory, and learning theory within cultural contexts;
  4. Lifestyle and career development, which includes studies that provide a broad understanding of career development theories, occupational and educational information sources and systems, career and leisure counseling, guidance and education, lifestyle and career decisionmaking, career development program planning, resources, and career option identification;
  5. Group dynamics, processes, counseling and consulting, which includes studies that provide a broad understanding of group development dynamics, group counseling theories, group leadership styles, basic and advanced group counseling methods and skills, and other group approaches;
  6. Assessment of individuals, which includes studies that provide a broad understanding of group and individual educational and psychometric theories and approaches to assessment, data and information gathering methods, validity and reliability, psychometric statistics, factors that influence assessment, use of assessment results in helping process and the specific ability to administer and interpret tests and inventories to assess abilities, interests, and identify career options;
  7. Social and cultural foundations, which include studies that provide a broad understanding of societal changes and trends, human roles, societal subgroups, social mores and interaction patterns, multicultural and pluralistic trends, differing lifestyles, and major societal concerns including stress, person abuse, substance abuse, discrimination and methods of alleviating these concerns;
  8. Research and evaluation, which include studies that provide a broad understanding of types of research, basic statistics, research-report development, research implementation, program

evaluation, needs assessment, publication of research information and ethical and legal considerations;

9. The counseling profession, which includes studies that provide a broad understanding of professional roles and functions, professional goals and objectives, clinical supervision, professional organizations and associations, professional history and trends, ethical and legal standards, professional preparation standards and professional credentialing;
10. Physiology, pharmacology, neurobiology related to substance use, abuse, dependency, chemical and behavioral addictions, genetics, chemotherapies used in treating chemical and behavioral addictions as well as mental illness and dual diagnosis;
11. Spirituality and religious issues as they relate to the client pre and post treatment, during the treatment process, religious and belief systems as they impact upon the treatment and recovery process, understanding and assessing clinical aspects of spirituality (both theistic and non-theistic approaches to spirituality); and
12. Prevention and education issues related to substance abuse which will include the six domains of prevention: program coordination; education and training; community organization; public policy; and planning and evaluation.

#### **13:34C–5.4 Continuing education contact hour calculations**

- (a) The Committee shall accept contact hours only for continuing education courses and/or programs which are at least one hour long and are directly related to the counseling profession. For purposes of this section, a “contact hour” represents a 60–minute hour with no less than 50 minutes of content within the hour. Courses or programs may include one 10–minute break for each contact hour.
- (b) A licensee or certificate holder shall complete and be able to verify such completion of a continuing education course or program in order to receive continuing education credits. The Committee shall grant a licensee or certificate holder continuing education credit for each biennial renewal period as follows:
  1. Course or program presentations: one and one-half contact hours of continuing education for each hour of a new course or program, up to a maximum of nine continuing education contact hours. These presentations shall not include lectures to clients or client family members. These presentations may include professional training, training for initial certification or licensure, continuing education for other professionals about substance abuse and addictions;
  2. Teaching courses offered at a regionally accredited institution of higher education: 20 contact hours of continuing education for each new semester course per biennial period. For the purpose of this subsection, “new” represents a course that the licensee or certificate holder has not taught previously in any educational setting;
  3. Successfully completing an undergraduate, graduate or post graduate coursework in the content areas listed at N.J.A.C. 13:34C–5.3(d), at a regionally accredited institution of higher education: 15 contact hours of continuing education for each semester course credit awarded;
  4. Distance learning courses or programs: the amount of contact hours of continuing education approved by the approving organization, with a maximum of 20 contact hours for the licensed clinical alcohol and drug counselor and 30 contact hours for the certified alcohol and drug counselor per biennial period; and

5. The primary author of a peer reviewed article published in a refereed professional journal or publication within the preceding biennial period: five contact hours of continuing education hours per article or publication, with a maximum of 10 contact hours per biennial period.

### **13:34C–5.5 Documentation of continuing education**

- (a) A licensee or certificate holder shall retain documentation of the contact hours of continuing education which the licensee or certificate holder completes in order to verify program attendance or activity completion. Each licensee or certificate holder shall submit such documentation to the Committee upon request. The Committee shall review the records of the licensees and/or certificate holders from time to time, to determine compliance with continuing education requirements.
- (b) A licensee or certificate holder shall verify attendance at continuing education courses or programs by a certificate of attendance or by a statement from the course instructor. The verification shall include:
  1. The name of the licensee or certificate holder;
  2. The name of the sponsor;
  3. The title, location and date of the course or program;
  4. The signature of the program official or instructor;
  5. The number of contact hours of continuing education; and
  6. Course/program approval numbers (if applicable).
- (c) A licensee or certificate holder shall verify continuing education activities by retaining the following:
  1. For courses or programs presentations, copies of the program brochure, syllabus, outline, course description, or audio or video copy of the presentation;
  2. For teaching at a regionally accredited institution of higher education: a copy of the course description, syllabus, outline, bibliography and verification of being a new course from the academic institution;
  3. A licensee or certificate holder shall verify completion of college or university coursework by an official transcript;
  4. Distance learning courses or programs: certification from the approving organization; and
  5. For publications, a copy of the peer reviewed article published in a refereed professional journal or publication.
- (d) A licensee or certificate holder shall maintain documentation for six years.
- (e) Falsification of any information submitted with the renewal application, audit or at the request of the Committee, may result in an appearance before the Committee, penalties, and/or any other disciplinary action, including, but not limited to, suspension or revocation of license or certification pursuant to N.J.S.A. 45:1–21 through 25. The Committee may take any appropriate disciplinary action, including, but not limited to, suspension or revocation of license or certification, pursuant to N.J.S.A. 45:1–21, if an alcohol and drug counselor fails to meet continuing education requirements as set forth in this subchapter.

### **13:34C–5.6 Waiver of continuing education**

- (a) The Committee may waive continuing education requirements on an individual basis for reasons of hardship such as illness, disability, active service in the military or other good cause.
- (b) A licensee or certificate holder who seeks a waiver of the continuing education requirements shall provide to the Committee, in writing, the specific reasons for requesting the waiver and such additional information as the Committee may request in support of the waiver. The request shall be submitted to the Committee at least three months prior to the end of the biennial registration period. The Committee may either grant the waiver or grant a limited period of time within which the requirements must be fulfilled in order to renew the license or certificate.

## **SUBCHAPTER 6. CLINICAL SUPERVISION**

### **13:34C–6.1 Definitions**

For purposes of this subchapter, the following words and terms have the following meanings:

“Clinical supervision” means the ongoing process of direct review of a supervisee for the purpose of administrative accountability, teaching, quality assurance, training, administering, or clinical review of counselor interns and certified alcohol and drug counselors performed by a qualified supervisor who monitors the performance of the core functions of alcohol and drug counseling, providing regular consultation, guidance and instruction with respect to the counseling skills and competencies of the person being supervised.

“Full time” means working at least 1,500 hours over a 50–week period.

“Group supervision” means the process of supervising no more than eight persons in a group setting by a qualified supervisor as set forth in this section.

“Part time” means at least a minimum of 500 hours over a 50–week period.

“Supervised agency practice” means alcohol and drug counseling by a certified alcohol and drug counselor within an alcohol and drug treatment facility licensed by the Department of Health and Senior Services.

“Supervised practical training” or a “counselor internship” means alcohol and drug counseling as a training experience leading towards licensure or certification as an alcohol and drug counselor.

“Supervised practice” means alcohol or drug counseling provided by a certified alcohol and drug counselor under the clinical supervision of a qualified supervisor.

### **13:34C–6.2 Clinical supervision of internship training experiences**

- (a) The following individuals may be clinical supervisors of alcohol and drug counseling interns:
  - 1. A New Jersey licensed clinical alcohol and drug counselor;
  - 2. A New Jersey licensed physician, who is certified by the American Society of Addiction Medicine (ASAM) or a psychiatrist with added qualifications in chemical dependency from the American Psychiatric Association; and
  - 3. A New Jersey licensed psychologist, clinical social worker, marriage and family therapist or professional counselor who is certified as a clinical supervisor by the APCBNJ.

- (b) Supervisors shall have a written agreement with supervisees which outline planned hours of practice, planned hours of clinical supervision, types of clinical supervision, nature of work assignments and other specifications that the supervisor deems appropriate to the counselor intern's level of training.
- (c) Prior to the intern's provision of treatment services, the supervisor shall obtain a written disclosure that the client has been informed that the services are provided by an intern under the clinical supervision of a licensed professional. This disclosure shall be kept as part of the client record. If the disclosure is part of another document provided at client orientation, the disclosure shall be clearly evident, understood and signed by the client.
- (d) The supervisor shall retain responsibility for collecting fees from clients when applicable.
- (e) The supervisor shall be ultimately responsible for the welfare of the client with respect to the treatment being offered by the supervisee.
- (f) The supervisor shall supervise only in areas of which he or she possesses the required skill, training and experience.
- (g) Supervisors shall co-sign all diagnostic summaries, treatment plans, reports to courts, agencies or other treatment providers which are prepared by counselor interns.
- (h) Supervisors shall be responsible for assisting the intern to function in a professional manner and comply within all State and Federal regulations and with the current professional code of ethics. The supervisor shall inform the Committee of violations of this chapter, laws and code of ethics, and the corrective action taken by the supervisor to remedy the situation, and assure that it will not reoccur.
- (i) Supervisors shall not supervise a counselor intern with whom the supervisor has a relationship which may compromise the objectivity of the supervisor or impair the professional judgment of the supervisor. Examples of inappropriate supervisory relationships include, but are not limited to, current clients, former clients within one year period post-treatment, former spouses, relatives, sponsor/sponsee relationships in self-help groups, anyone with whom the supervisor is having a sexual relationship, or has had a sexual relationship within the past 24 months. A supervisor shall not supervise a current student unless the supervisor is the faculty instructor in the academic internship training program.
- (j) Supervisors shall evaluate counselor interns at least twice a year, emphasizing their strengths and shortcomings as well as whether the intern needs to pursue additional knowledge and/or skill development. These evaluations shall be signed by both the supervisor and supervisee, and copies shall be retained by both for seven years. Copies of these evaluations may be requested by the Committee prior to initial certification or licensure.
- (k) Clinical supervision of counselor interns shall include at least 50 hours of face-to-face supervision per year, averaging one hour per week. No more than 25 hours shall be group supervision.

### **13:34C–6.3 Clinical supervision of a supervised practice**

- (a) The following individuals may be clinical supervisors of certified alcohol and drug counselors:
  1. A New Jersey licensed clinical alcohol and drug counselor;
  2. A New Jersey licensed physician, certified by the American Society of Addiction Medicine or a psychiatrist; and
  3. A New Jersey licensed psychologist, clinical social worker, marriage and family therapist or professional counselor certified as clinical supervisors by the APCBNJ.

- (b) Supervisors shall have a written agreement with supervisees describing the planned hours of practice, supervision schedule, nature of work assignments and other specifications that the supervisor reasonably deems appropriate to the counselor's level of training.
- (c) Prior to the counselor's provision of treatment services, the supervisor shall obtain a written disclosure that the client has been informed that the services are provided by a certified counselor under the supervision of a licensed professional. This disclosure shall be kept as part of the client record. If the disclosure is part of another document provided at client orientation, the disclosure shall be clearly evident, understood and signed by the client. The supervisor shall retain the responsibility for collecting fees from clients when applicable.
- (d) The supervisor may require the cosigning of reports to outside agencies or providers.
- (e) Supervisors shall inform the Committee of violations of this chapter, laws and code of ethics and the corrective action taken by the supervisor to remedy the situation, and assure that it will not reoccur.
- (f) Supervisors who terminate their supervisory relationship from a certified counselor shall retain the client records, arrange for appropriate termination of the counselor/client relationship and offer the client additional options for continuation of the treatment care.
- (g) If the reason for termination of the supervisory relationship with the counselor involves the violation of this chapter, Federal or State laws or regulations affecting the profession, or the current code of ethics, the supervisor shall report the reasons to the Committee with the counselor's name and certificate number.
- (h) Supervisors shall retain a copy of the counselor's certificate of registration and current curriculum vitae for seven years.
- (i) Supervisors shall not supervise a counselor with whom the supervisor has a relationship which may be inappropriate to the supervision and may compromise the objectivity of the supervisor or impair the professional judgment of the supervisor. Examples of inappropriate supervisory relationships include, but are not limited to, current clients, former clients within one year period post-treatment, former spouses, relatives, sponsor/sponsee relationships in self-help groups, anyone with whom the supervisor is having a sexual relationship, or has had a sexual relationship within the past 24 months. A supervisor shall not supervise a current student unless the supervisor is the faculty instructor in an academic training program.
- (j) Supervisors shall evaluate supervisees at least annually, emphasizing their strengths and shortcomings as well as areas in which the counselor should pursue additional knowledge and/or skill development. These evaluations shall be cosigned by both the supervisor and supervisee and copies shall be retained by both for seven years. Copies of these evaluations may be requested by the Committee.
- (k) Clinical supervision shall include at least 50 hours of face-to-face supervision per year, averaging one hour per week, with no more than 10 percent being real-time interactive video conferencing. Counselors with more than five years of experience as a certified alcohol and drug counselor may be supervised less frequently, but no less than two hours per month. This reduced supervision is at the discretion of the supervisor and is dependent upon the supervisor's style, techniques, policies and protocols as well as the level of skill, training and caseload of the counselor.

#### **13:34C–6.4 Clinical supervision of an agency practice**

- (a) The Committee shall accept clinical supervision requirements in agencies licensed by the Department of Health and Senior Services as substance abuse treatment facilities as they relate to

the clinical supervision of alcohol and drug counselors, unless otherwise specified in this subchapter.

- (b) Supervised agency practice by a certified clinical alcohol and drug counselor does not apply to practice by that individual outside the licensed facility setting.
- (c) If the Committee is advised of inadequacies in the clinical supervision of certified alcohol and drug counselors in a Department of Health and Senior Services' (DHSS) licensed substance abuse treatment facility, the Committee shall notify the DHSS of such inadequacies and may recommend to DHSS a plan for clinical supervision. If the inadequacies in supervision within an agency practice setting, as defined in N.J.A.C. 13:34C–6.4(a), are not resolved within three months of such notice, the agency supervision exemption described herein shall be withdrawn and the regulations for supervised practice at N.J.A.C. 13:34C–6.3 shall be imposed upon subject certificate holders until such time as the Committee determines that the inadequacies in supervision have been corrected.